2001-03 BUDGET ADJUSTMENT BILL

COMPARATIVE SUMMARY OF BUDGET RECOMMENDATIONS

2001 Wisconsin Act 109

LEGISLATIVE FISCAL BUREAU

SEPTEMBER, 2002

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INTRODUCTION

This document, prepared by the Legislative Fiscal Bureau, is the final edition of the cumulative summary of executive and legislative action on the 2001-03 budget adjustment bill. The bill was enacted into law as 2001 Wisconsin Act 109 on July 26, 2002. This document describes each of the provisions of Act 109, including all fiscal and policy modifications recommended by the Governor, Joint Committee on Finance and Legislature.

The document is organized into three sections, the first of which contains a Table of Contents, History of the 2001-03 Budget Adjustment Bill, User's Guide and a listing of budget papers prepared by the Legislative Fiscal Bureau.

This is followed by an "overview" section which provides a series of tables which display a general fund condition statement (Table 1), appropriations (Tables 3 and 4) and positions (Tables 5 and 6). The purpose of the budget adjustment bill was to address the state's projected 2001-03 general fund deficit of $1,117.3 million. Table 2 lists the items of Act 109 that increase and decrease the projected deficit figure. The table begins with the $1,117.3 million deficit amount and concludes with the estimated Act 109 net balance of $0.9 million.

The final section contains summaries of each item for each state agency. The agencies appear in alphabetical order.

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Agency Budget and Program Summaries

HISTORY OF THE 2001-03 BUDGET ADJUSTMENT BILL

This section provides a narrative history of the 2001-03 budget adjustment bill (Special Session Assembly Bill 1), enacted as 2001 Wisconsin Act 109.

The state's biennial budget act (2001 Wisconsin Act 16) was enacted on August 30, 2001. However, based on tax collection data and other information, on January 16, 2002, the Legislative Fiscal Bureau estimated that the state's general fund would need to be improved by $1,117.3 million in order to maintain the required statutory balance of $142.8 million for the 2001-03 biennium. Consequently, on February 5, 2002, at the request of Governor Scott McCallum, the Committee on Assembly Organization introduced January 2002 Special Session Assembly Bill 1 (SS AB 1) to address the projected deficit situation. The bill was read for the first time and referred to the Joint Committee on Finance on February 5. The Finance Committee held public hearings on the bill on February 13 in Madison and on February 20 in Wausau.

On February 15, Senator Brian Burke (D-Milwaukee), the Senate Chair of the Joint Committee on Finance, and Representative John Gard (R-Peshtigo), the Assembly Chair of the Joint Committee on Finance, issued a memorandum identifying four nonfiscal policy items in AB 1 that would not be addressed as part of the Joint Committee on Finance's budget deliberations. These provisions were deleted from the budget adjustment bill. The Joint Committee on Finance took executive action on February 27 and 28 and March 5 and 6. On March 6, Assembly Substitute Amendment 1, incorporating all of the Committee's previous actions modifying the budget adjustment bill, was offered by the Finance Committee and subsequently adopted the same day on a vote of 9 to 7. The revised budget adjustment bill, ASA 1 to SS AB 1, was formally reported to the Assembly on March 14, 2002.

On March 14, the Assembly adopted three amendments to the substitute amendment, Assembly Amendment 1 as amended by Assembly Amendments 1 and 14, Assembly Amendment 63 as amended by Assembly Amendment 1, and Assembly Amendment 64. The Assembly then adopted Assembly Substitute Amendment 1 to SS AB 1 on a vote of 54 to 45. The bill was read a third time and, on March 14, passed on a vote of 51 to 48. The Assembly version of the budget adjustment bill was formally reported to the Senate on March 19, 2002.

Senate Substitute Amendment 1, identical to ASA 1, formed the basis for Senate consideration of the budget. On April 5, the Senate adopted two amendments to the Senate Substitute Amendment, Senate Amendment 3 and Senate Amendment 2 as amended by Senate Amendment 2. The Senate then adopted Senate Substitute Amendment 1 and the bill was read a third time and, on April 5, passed on a vote of 17 to 16.

An informal Conference Committee began deliberations on the 314 items of difference between the houses on AB 1 on April 16 and subsequently met April 17, 18, 23, 24, 25 and 30. On May 1, Special Session Assembly Joint Resolution 1, regarding the establishment of a Committee on Conference on SS AB 1, was offered. AJR 1 authorized the creation of a Conference Committee of eight members, consisting of three members of the majority party and one member of the minority party from each house. The Assembly adopted AJR 1 on a vote of 97 to 1 and the Senate concurred in the resolution. Senators Charles Chvala (D-Madison), Russell Decker (D-Schofield), Robert Jauch (D-Poplar) and Mary Panzer (R-West Bend) were named the Senate conferees, while Representatives Scott Jensen (R-Waukesha), Steven Foti (R-Oconomowoc), John Gard (R-Peshtigo) and Spencer Black (D-Madison) were named as the Assembly conferees. Senator Chvala and Representative Jensen served as Co-chairs of the Committee until Representative Jensen removed himself from the Committee on June 17. Representative Gard then served as the Assembly Co-chair. The formal Committee deliberated on May 7, 9, 14, 16, 20, 23, 28 and 30 and June 4, 6, 11, 13, 14, 18, 20, 21, 24 and 27. On July 2, the Committee finished deliberations and approved the Conference Committee report on a vote of 6 to 2 with Senators Chvala, Decker and Jauch and Representatives Gard, Foti and Stephen Freese (R-Dodgeville, who replaced Representative Jensen) voting in the affirmative and the minority members from each house, Senator Panzer and Representative Black, voting in the negative.

On July 3, the Legislative Fiscal Bureau briefed the Senate Republican and Senate Democratic Caucuses on the provisions of the Conference Committee report. Later that evening, the Conference Committee report was adopted by the Senate on a vote of 17 to 16. Subsequently, the Legislative Fiscal Bureau briefed the Assembly Republican and Assembly Democratic Caucuses on the provisions of the Conference report on July 5. The Assembly began meeting to review the Conference report on July 5, recessed over the weekend, and on July 8 concurred in the Conference Committee report on a vote of 50 to 47. The bill was enrolled on July 24, and awaited final action by the Governor.

The Governor approved Special Session Assembly Bill 1, in part, on July 26 and had it deposited in the Office of the Secretary of State as 2001 Act 109. The Governor indicated in his message to the Assembly that he had exercised his authority to make 72 partial vetoes to the bill, as passed by the Legislature. Act 109 was published on July 29, and except as otherwise specifically provided, became effective the following day. None of the Governor's partial vetoes were overturned by the Legislature.

USER'S GUIDE

1 Title of the budget item. Immediately following the title, if applicable, "[ ]" shows the number of the Legislative Fiscal Bureau issue paper prepared on this item. In this example, paper [1215] pertains to the Private Bar Shortfall. A complete listing of all Fiscal Bureau issue papers begins on page 4 of this document.

2 Funding and position change to the agency's budget. If the entry is entitled, "GOVERNOR/LEGISLATURE," the recommendations proposed by the Governor were adopted by the Joint Committee on Finance and the Legislature. For those budget items where the recommendations of the Governor, Joint Finance Committee or Legislature differ, the fiscal and position effect shown at each step is the change to the previous recommendation.

3 Narrative description of the various budget items, for each entry, as recommended by the Governor, Joint Committee on Finance, Assembly, Senate, Conference Committee and Legislature.

4 Narrative description of partial vetoes by the Governor. At the beginning of the veto entry in the "[ ]" is the number (in this example D-8 and D-9) of the veto from the Governor's veto message (July 26, 2002).

5 Bill sections relating to the budget change item. "Act 109 Sections" lists the sections which remain in the act. "Act 109 Vetoed Sections" lists those sections which were partially or entirely vetoed.

PUBLIC DEFENDER

1. PRIVATE BAR SHORTFALL [LFB Paper 1215]

1

2

	Jt. Finance/Leg	Veto (Chg. to Leg)	Net Change
GPR	$10,721,200	- $1,033,000	$9,688,200

Joint Finance/Legislature: Provide $10,721,200 to the private bar and investigator reimbursement appropriation in 2002-03, $6,647,900 of which is one-time funding, to address a projected shortfall in private bar funding. Further, provide that...

3

Veto by Governor [D-8 and D-9]: Reduce the funding increase by $1,033,000 in 2002-03. Delete provision relating to filling vacant positions for trial or appellate representation.

4

[Act 109 Section: 9239(1z)]

5

[Act 109 Vetoed Sections: 9139(1z) and 9239(1z)]

LEGISLATIVE FISCAL BUREAU

Budget Papers

Paper #

Governor

1160 Domestic Security Coordinator Position

Health and Family Services

1165 Medical Assistance and BadgerCare Base Reestimates
1166 MA Prescription Drugs -- Prior Authorization
1167 Grants for Community Health Centers
1168 Statewide Trauma Care System
1169 Surveillance of Diseases and Potential Threats
1170 Disease Aids
1171 Underage Tobacco Enforcement

Higher Educational Aids Board

1180 Wisconsin Higher Education Grant

Justice

1103 Reduction of Racing-Related GPR Funding

Legislature

1185 Economic Impact Statements

Military Affairs

1190 Elimination of the Youth Challenge Program

Natural Resources

1200 General Purpose Revenue for Snowmobiling
1201 GPR-Supported Conservation Wardens
1202 Outdoor Resources Action Program Residual Bonding Authority
1203 Funding for Act 16 Vetoed Provisions Within the Conservation Fund
1204 Warren Knowles-Gaylord Nelson Stewardship Program
1205 Urban Forestry Grant Program Expansion
1206 Stewardship Program Debt Retirement Payments
1207 Aids in Lieu of Taxes
1208 Supplemental Title Fee Matching Reestimate

Public Defender

1215 Private Bar Shortfall

Paper #

Public Instruction

1220 Debt Levy Limit for Calculation of Partial School Revenues
1221 Primary Guaranteed Valuation
1222 General School Aids Funding Determination
1223 Revenue Limit Per Pupil Annual Increase
1224 High School Graduation Test
1225 State Support of K-12 Public Education

Shared Revenue and Tax Relief

1235 Shared Revenue Modifications -- Distribution of 2002 Payments
1236 Shared Revenue Modifications -- Shared Revenue Payments for 2003 and Thereafter
1237 Shared Revenue Modifications -- Utility Aid Distribution for 2003 and Thereafter
1238 Shared Revenue Modifications -- Payments for 2003 and Thereafter Under Programs Related to Shared Revenue
1239 County and Municipal Operating Levy Limit
1240 Waiver from State-Imposed Mandates on Local Governments

Tobacco Securitization

1250 Tobacco Securitization Bond Transaction

Truth-in-Sentencing

1255 Bifurcated Sentencing Modifications

University of Wisconsin System

1260 Resident Undergraduate Tuition 10% Increase Limit
1261 State Laboratory of Hygiene
1262 Veterinary Diagnostic Laboratory

Veterans Affairs

1270 Wisconsin Veterans Tribute Memorial Funding

Wisconsin Technical College System

1275 Eliminate the Technical and Occupational Program Grants for Students and Create an Educational Assistance Program for Dislocated Workers
1276 Mill Rate and Levy Limit Changes and Limit on Increase in Fees

OVERVIEW

BUDGET AND POSITION SUMMARIES

TABLE 1

2001-03 General Fund Condition Statement

	2001-02	2002-03
Revenues		
Opening Balance, July 1	$207,508,000	$235,056,200
Estimated Taxes	10,209,650,000	10,515,500,000
Departmental Revenues		
Tobacco Settlement	155,526,000	157,602,800
Tobacco Securitization	681,000,000	0
Other	243,803,700	257,177,100
Total Available	$11,497,487,700	$11,165,336,100
Appropriations, Transfers and Reserves		
Gross Appropriations	$11,483,931,600	$11,121,564,300
Compensation Reserves	25,388,800	79,815,500
Transfer to Tobacco Control Fund	6,032,300	15,345,100
Less Estimated Lapses	-252,921,200	-186,675,700
Net Appropriations	$11,262,431,500	$11,030,049,200
Balances		
Gross Balance	$235,056,200	$135,286,900
Less Required Statutory Balance*	-138,111,800	-134,416,600
Net Balance, June 30	$96,944,400	$870,300

*The statutes do not specify a required balance for 2001-02. The $138.1 million figure shown for 2001-02 is 1.2% of gross appropriations and compensation reserves. Although not required by statute, the 1.2% calculation was used in condition statements during 2001-03 budget deliberations. The statutes require a balance of 1.2% of gross appropriations and compensation reserves for 2002-03.

TABLE 2

General Fund Budget Items Under Act 109
(In Millions)

	Amount
Estimated June 30, 2003, Deficit (January 16, 2002)	-$1,117.3
Increases to Deficit	
Probation and Parole Hold Reimbursements	-$1.4
Campaign Finance	-0.2
Internal Revenue Code Update	-28.0
MA Benefits	-74.4
Restore 3.5% Administrative Lapse	-28.3
Foster Care and Adoption Assistance	-4.4
WHEG Grant Increase	-2.0
Private Bar Shortfall	-9.7
Reestimated Interest Earnings	-9.5
Minnesota-Wisconsin Income Tax Reciprocity	-5.5
Subtotal--Increases	-$163.4
Decreases to Deficit	
Across-the-Board State Operations Reductions	$104.4
Agency PR/SEG Lapses and Transfers	40.9
Substitute WHEDA Reserves for Housing Grants	4.8
Soil and Water Resource Management Grants	0.5
Reduction in State Agency Membership and Dues	0.6
Sale of Certain State Buildings	4.8
Debt Restructuring	25.0
Increase Fees for Court Support Services	8.1
International and Export Services	0.5
Delete Length of Service Payments	5.2
Private Sewage System Grants	0.8
Delay Correctional Facility Openings	10.9
Fees from Persons on Probation and Parole	5.9
Reestimate Corrections' Fuel and Utilities	3.7
Corrections Inmates Room and Board Increase	1.4
Suspension of State Contributions to Sick Leave Conversion Program	61.0
Earned Income Tax Credit	3.0
Delay Payments to Managed Care Organizations	27.4

TABLE 2 (continued)

General Fund Budget Items Under Act 109
(In Millions)

	Amount
MA and BadgerCare Prescription Drugs	$13.5
IGT Funds for Community Integration Programs	50.0
HIRSP Reduction	0.5
Eliminate Legislative Caucus Staffs	4.0
Eliminate Youth Challenge Program	1.3
DMA Fuel and Utilities	0.9
Interest on Operating Notes	6.1
Supplemental Title Fee Matching Appropriation	0.6
Conservation Wardens	1.8
Forestry Funding Restoration	3.7
Debt Levy Limit for K-12 Schools	20.0
High School Graduation Test	3.3
Reduce Aid to Public Library Systems	0.5
Tobacco Securitization	829.3
UW Funding Reduction	6.7
Veterinary Diagnostic Laboratory Lapse	0.8
Eliminate WTCS TOP Grants	4.2
Reduce WTCS State Aids	0.7
General Fund Lapse -- 01-02 Compensation Reserves Estimate	12.9
Edvest Loan Repayment	0.8
Reduce Statutory Balance Consistent with Gross Appropriations	8.4
Net Miscellaneous Items	2.7
Subtotal--Decreases	$1,281.6
Net Balance	$0.9

TABLE 3

All Funds Appropriations by Agency

Agency	Acts 1-108	Thru Act 109	Act 109 Change to Acts 1-108 Amount	Percent
Administration	$719,670,600	$718,454,000	-$1,216,600	-0.2%
Adolescent Pregnancy Prevention Board	1,121,600	1,112,000	-9,600	-0.9
Agriculture, Trade and Consumer Protection	151,936,300	147,137,200	-4,799,100	-3.2
Arts Board	6,379,000	6,155,800	-223,200	-3.5
Board of Commissioners of Public Lands	2,879,700	2,879,700	0	0.0
Board on Aging and Long-Term Care	3,201,300	3,201,300	0	0.0
Building Commission	80,133,400	69,114,800	-11,018,600	-13.8
Child Abuse and Neglect Prevention Board	5,118,800	5,118,800	0	0.0
Circuit Courts	148,038,600	147,472,900	-565,700	-0.4
Commerce	377,781,600	374,174,300	-3,607,300	-1.0
Compensation Reserves	240,401,900	229,099,500	-11,302,400	-4.7
Corrections	1,981,707,800	1,949,568,100	-32,139,700	-1.6
Court of Appeals	14,745,200	15,260,000	514,800	3.5
District Attorneys	75,624,000	75,624,000	0	0.0
Educational Communications Board	34,183,700	33,388,500	-795,200	-2.3
Elections Board	2,784,000	2,774,800	-9,200	-0.3
Electronic Government	264,431,700	264,431,700	0	0.0
Employee Trust Funds	41,664,200	43,049,700	1,385,500	3.3
Employment Relations	14,789,100	14,203,300	-585,800	-4.0
Employment Relations Commission	5,757,000	5,491,900	-265,100	-4.6
Environmental Improvement Fund	77,199,000	76,629,200	-569,800	-0.7
Ethics Board	1,221,200	1,196,400	-24,800	-2.0
Financial Institutions	31,528,600	30,238,100	-1,290,500	-4.1
Fox River Navigational System Authority	216,700	216,700	0	0.0
Governor	7,112,800	7,177,600	64,800	0.9
Health and Family Services	10,545,082,300	10,620,598,100	75,515,800	0.7
Higher Educational Aids Board	138,763,000	141,114,800	2,351,800	1.7
Historical Society	38,015,800	37,242,300	-773,500	-2.0
Insurance	185,673,700	185,673,700	0	0.0
Investment Board	39,104,400	39,104,400	0	0.0
Judicial Commission	432,600	429,300	-3,300	-0.8
Justice	153,327,000	149,796,700	-3,530,300	-2.3
Legislature	126,931,000	124,779,900	-2,151,100	-1.7
Lieutenant Governor	1,126,600	1,070,300	-56,300	-5.0
Lower Wisconsin State Riverway Board	307,600	307,600	0	0.0

TABLE 3 (continued)

All Funds Appropriations by Agency

Agency	Acts 1-108	Thru Act 109	Act 109 Change to Acts 1-108 Amount	Percent
Medical College of Wisconsin	$16,271,300	$16,271,300	$0	0.0%
Military Affairs	110,392,500	113,344,700	2,952,200	2.7
Miscellaneous Appropriations	995,013,200	1,256,162,300*	261,149,100	26.2
Natural Resources	961,471,100	959,371,200	-2,099,900	-0.2
Personnel Commission	1,727,600	1,641,500	-86,100	-5.0
Program Supplements	102,969,100	101,582,900	-1,386,200	-1.3
Public Defender	127,742,100	137,227,800	9,485,700	7.4
Public Instruction	10,461,008,300	10,437,281,000	-23,727,300	-0.2
Public Service Commission	44,651,400	44,651,400	0	0.0
Regulation and Licensing	23,044,300	23,044,300	0	0.0
Revenue	310,152,800	306,215,400	-3,937,400	-1.3
Secretary of State	1,408,200	1,408,200	0	0.0
Shared Revenue and Tax Relief	3,786,454,500	3,795,754,500**	9,300,000	0.2
State Fair Park Board	35,566,800	35,291,900	-274,900	-0.8
State Treasurer	4,223,700	4,220,000	-3,700	-0.1
Supreme Court	47,658,600	48,010,800	352,200	0.7
TEACH Board	131,300,300	129,373,500	-1,926,800	-1.5
Tobacco Control Board	21,527,400	21,527,400	0	0.0
Tourism	31,908,200	31,596,000	-312,200	-1.0
Transportation	4,372,982,000	4,373,008,100	26,100	< 0.1
UW Hospitals and Clinics Board	162,247,000	162,247,000	0	0.0
University of Wisconsin System	6,505,364,800	6,463,906,900	-41,457,900	-0.6
Veterans Affairs	328,224,800	328,284,800	60,000	< 0.1
Wisconsin Technical College System	367,008,000	361,863,900	-5,144,100	-1.4
Workforce Development	2,457,387,200	2,458,082,000	694,800	< 0.1
TOTAL	$46,926,097,000	$47,134,656,200	$208,559,200	0.4%

*Excludes tobacco settlement proceeds of $598,300,000 SEG that are included in shared revenues in 2002-03 to offset GPR appropriations for this purpose.

**Includes $598,300,000 in tobacco settlement proceeds (from Miscellaneous Appropriations) used to offset GPR appropriations for shared revenues in 2002-03.

TABLE 4

General Fund Appropriations by Agency

Agency	Acts 1-108	Thru Act 109	Act 109 Change to Acts 1-108 Amount	Percent
Administration	$41,544,400	$35,527,500	-$6,016,900	-14.5%
Adolescent Pregnancy Prevention Board	222,600	213,000	-9,600	-4.3
Agriculture, Trade and Consumer Protection	59,729,200	55,149,400	-4,579,800	-7.7
Arts Board	5,126,800	4,903,600	-223,200	-4.4
Board on Aging and Long-Term Care	1,563,000	1,563,000	0	0.0
Building Commission	78,085,000	67,066,400	-11,018,600	-14.1
Circuit Courts	148,038,600	147,472,900	-565,700	-0.4
Commerce	39,691,600	37,387,800	-2,303,800	-5.8
Compensation Reserves	110,400,000	105,204,300	-5,195,700	-4.7
Corrections	1,679,457,000	1,639,958,700	-39,498,300	-2.4
Court of Appeals	14,745,200	15,260,000	514,800	3.5
District Attorneys	72,384,100	72,384,100	0	0.0
Educational Communications Board	14,462,500	13,667,300	-795,200	-5.5
Elections Board	1,899,600	1,890,400	-9,200	-0.5
Employee Trust Funds	7,233,300	8,618,800	1,385,500	19.2
Employment Relations	11,714,800	11,129,000	-585,800	-5.0
Employment Relations Commission	5,300,600	5,035,500	-265,100	-5.0
Environmental Improvement Fund	60,999,000	60,429,200	-569,800	-0.9
Ethics Board	494,600	469,800	-24,800	-5.0
Governor	7,010,800	7,075,600	64,800	0.9
Health and Family Services	3,876,701,500	3,857,082,500	-19,619,000	-0.5
Higher Educational Aids Board	134,485,600	136,837,400	2,351,800	1.7
Historical Society	23,663,900	22,890,400	-773,500	-3.3
Judicial Commission	432,600	429,300	-3,300	-0.8
Justice	75,741,400	72,202,300	-3,539,100	-4.7
Legislature	123,973,000	121,821,900	-2,151,100	-1.7
Lieutenant Governor	1,126,600	1,070,300	-56,300	-5.0
Medical College of Wisconsin	15,271,300	15,271,300	0	0.0
Military Affairs	39,931,800	41,603,600	1,671,800	4.2
Miscellaneous Appropriations	194,787,300	214,411,900	19,624,600	10.1

TABLE 4 (continued)

General Fund Appropriations by Agency

Agency	Acts 1-108	Thru Act 109	Act 109 Change to Acts 1-108 Amount	Percent
Natural Resources	$318,542,000	$311,832,100	-$6,709,900	-2.1%
Personnel Commission	1,721,600	1,635,500	-86,100	-5.0
Program Supplements	89,345,000	87,958,800	-1,386,200	-1.6
Public Defender	125,168,300	134,654,000	9,485,700	7.6
Public Instruction	9,479,368,600	9,455,641,300	-23,727,300	-0.3
Revenue	164,977,700	160,922,900	-4,054,800	-2.5
Shared Revenue and Tax Relief	3,452,992,700	3,459,332,700*	6,340,000	0.2
State Fair Park Board	2,554,100	2,279,200	-274,900	-10.8
State Treasurer	83,500	79,800	-3,700	-4.4
Supreme Court	22,079,000	22,431,200	352,200	1.6
TEACH Board	86,370,800	84,444,000	-1,926,800	-2.2
Tourism	22,507,000	22,194,800	-312,200	-1.4
Transportation	233,600	59,700	-173,900	-74.4
University of Wisconsin System	2,108,074,900	2,065,633,400	-42,441,500	-2.0
Veterans Affairs	4,306,000	4,366,000	60,000	1.4
Wisconsin Technical College System	293,768,000	288,623,900	-5,144,100	-1.8
Workforce Development	435,569,700	432,883,700	-2,686,000	-0.6
TOTAL	$23,453,880,200	$23,309,000,200	-$144,880,000	-0.6%

*Includes $598,300,000 in tobacco settlement proceeds used to offset GPR appropriations for shared revenues in 2002-03.

TABLE 5

All Funds Full-Time Equivalent Positions by Agency

Agency	Act 16	Act 109	Change to Act 16
Administration	893.68	893.68	0.00
Adolescent Pregnancy Prevention Board	1.50	1.50	0.00
Agriculture, Trade and Consumer Protection	669.85	669.85	0.00
Arts Board	12.00	12.00	0.00
Board of Commissioners of Public Lands	10.00	10.00	0.00
Board on Aging and Long-Term Care	25.90	25.90	0.00
Child Abuse and Neglect Prevention Board	4.00	4.00	0.00
Circuit Courts	511.00	511.00	0.00
Commerce	473.75	473.75	0.00
Corrections	10,957.33	10,200.16	-757.17
Court of Appeals	75.50	75.50	0.00
District Attorneys	404.65	404.65	0.00
Educational Communications Board	93.50	93.50	0.00
Elections Board	13.00	15.00	2.00
Electronic Government	230.30	230.30	0.00
Employee Trust Funds	213.35	213.35	0.00
Employment Relations	86.00	86.00	0.00
Employment Relations Commission	31.50	31.50	0.00
Ethics Board	6.50	6.50	0.00
Financial Institutions	168.50	168.50	0.00
Governor	48.05	48.05	0.00
Health and Family Services	6,681.14	6,683.14	2.00
Higher Educational Aids Board	13.00	13.00	0.00
Historical Society	172.07	172.07	0.00
Insurance	135.00	135.00	0.00
Investment Board	104.50	104.50	0.00
Judicial Commission	2.00	2.00	0.00
Justice	574.40	574.40	0.00
Legislature	830.97	830.97	0.00
Lieutenant Governor	7.75	7.75	0.00
Lower Wisconsin State Riverway Board	2.00	2.00	0.00
Military Affairs	385.03	385.03	0.00
Natural Resources	2,322.09	2,323.09	1.00
Personnel Commission	10.00	10.00	0.00
Public Defender	527.55	527.55	0.00

TABLE 5 (continued)

All Funds Full-Time Equivalent Positions by Agency

Agency	Act 16	Act 109	Change to Act 16
Public Instruction	656.40	656.40	0.00
Public Service Commission	191.50	191.50	0.00
Regulation and Licensing	135.50	135.50	0.00
Revenue	1,309.05	1,309.05	0.00
Secretary of State	8.50	8.50	0.00
State Fair Park Board	46.20	46.20	0.00
State Treasurer	18.50	18.50	0.00
Supreme Court	203.50	203.50	0.00
TEACH Board	8.00	8.00	0.00
Tobacco Control Board	4.00	4.00	0.00
Tourism	62.25	61.25	-1.00
Transportation	3,919.33	3,919.33	0.00
Truth-in-Sentencing and Criminal Penalties	0.00	6.00	6.00
University of Wisconsin System	29,453.26	29,453.26	0.00
UW Hospitals and Clinics Board	1,887.22	1,887.22	0.00
Veterans Affairs	943.30	943.30	0.00
Wisconsin Technical College System	81.05	81.05	0.00
Workforce Development	2,362.80	2,362.80	0.00
TOTAL	67,987.72	67,240.55	-747.17

Full-Time Equivalent Positions Summary by Funding Source

Fund	Act 16	Act 109	Change to Act 16
GPR	37,216.03	36,442.06	-773.97
FED	8,416.60	8,416.60	0.00
PR	17,456.10	17,468.90	12.80
SEG	4,898.99	4,912.99	14.00
TOTAL	67,987.72	67,240.55	-747.17

TABLE 6

General Fund Full-Time Equivalent Positions by Agency

Agency	Act 16	Act 109	Change to Act 16
Administration	138.56	138.56	0.00
Adolescent Pregnancy Prevention Board	0.30	0.30	0.00
Agriculture, Trade and Consumer Protection	292.61	292.61	0.00
Arts Board	5.00	5.00	0.00
Board on Aging and Long-Term Care	14.05	14.05	0.00
Circuit Courts	511.00	511.00	0.00
Commerce	80.40	80.40	0.00
Corrections	9,542.33	8,788.56	-753.77
Court of Appeals	75.50	75.50	0.00
District Attorneys	375.65	375.65	0.00
Educational Communications Board	61.75	61.75	0.00
Elections Board	13.00	15.00	2.00
Employee Trust Funds	3.50	3.50	0.00
Employment Relations	79.90	79.90	0.00
Employment Relations Commission	28.50	28.50	0.00
Ethics Board	3.00	3.00	0.00
Governor	47.75	47.75	0.00
Health and Family Services	2,310.54	2,312.54	2.00
Higher Educational Aids Board	12.36	12.36	0.00
Historical Society	139.50	139.50	0.00
Judicial Commission	2.00	2.00	0.00
Justice	409.15	409.15	0.00
Legislature	811.17	811.17	0.00
Lieutenant Governor	7.75	7.75	0.00
Military Affairs	125.80	108.60	-17.20
Natural Resources	504.78	491.78	-13.00
Personnel Commission	10.00	10.00	0.00
Public Defender	523.55	523.55	0.00
Public Instruction	334.37	334.37	0.00
Revenue	1,097.15	1,097.15	0.00
Supreme Court	111.50	111.50	0.00
TEACH Board	5.00	5.00	0.00
Tourism	57.25	57.25	0.00
Truth-in-Sentencing and Criminal Penalties	0.00	6.00	6.00
University of Wisconsin System	19,141.35	19,141.35	0.00
Veterans Affairs	9.30	9.30	0.00
Wisconsin Technical College System	39.40	39.40	0.00
Workforce Development	291.31	291.31	0.00
TOTAL	37,216.03	36,442.06	-773.97

AGENCY BUDGET AND PROGRAM SUMMARIES

ADMINISTRATION

1. SUBSTITUTION OF PUBLIC BENEFITS FUNDING FOR CERTAIN STATE AGENCIES' GPR-FUNDED ENERGY COSTS [LFB Papers 1100 and 1102]

Governor: Earmark $4,150,000 SEG in 2001-02 and $18,150,000 SEG in 2002-03 from that portion of the utility public benefits fund that would otherwise be expended under DOA's energy conservation and efficiency and renewable resource grants sum sufficient appropriation and transfer the following amounts to offset appropriated GPR funds for energy costs for the following agencies:

	2001-02	2002-03
University of Wisconsin System	$4,150,000	$17,122,600
Health and Family Services	0	600,000
Military Affairs	0	427,400
Total	$4,150,000	$18,150,000

Create a new SEG-funded appropriation under each of these three agencies to receive the transferred public benefits moneys and provide that equivalent amounts of GPR funding appropriated for energy cost under each agency could not be encumbered or expended except with the approval of the DOA Secretary. The effect of these provisions is to increase GPR lapse amounts under each agency by the amount of the public benefits funds that are transferred. The fiscal effects of these transfers and lapses are shown under each of the affected state agencies. Modify the DOA public benefits energy conservation and efficiency and renewable resource grants sum sufficient appropriation to permit these transfers during the 2001-03 fiscal biennium. Effective July 1, 2003, repeal and recreate this DOA appropriation to delete the authority to make any further transfers of public benefits funds to the three state agencies' energy costs appropriations.

Under current law, energy efficiency and renewable resource public benefits funding derives from fees paid by public utility customers, transitional funds being transferred under PSC order to the public benefits fund from investor-owned utilities, contributions from municipal utilities and retail electric cooperatives and prior year carryover balances. DOA has budgeted $45.3 million SEG in 2001-02 and $51.4 million SEG in 2002-03 from these sources for various energy conservation and renewable resource development projects. The proposed substitution of a portion of these public benefits funds for agency energy costs would require

the redirection of a portion of those amounts that have been budgeted for current and future energy conservation and renewable resource development projects.

Joint Finance: Modify provision by increasing by $1,000,000 SEG in 2001-02 the amounts earmarked to the University of Wisconsin System's newly-created energy costs appropriation from the utility public benefits fund that would otherwise be expended under DOA's energy conservation and efficiency and renewable resource grants sum sufficient appropriation. Increase by $1,000,000 GPR the amounts in 2001-02 that the University could not encumber or expend under its current GPR-funded energy costs appropriation without approval of the DOA Secretary. Specify that the additional $1,000,000 SEG provided to the University in 2001-02 be used first to support current master lease payments for energy conservation projects. The fiscal effect of this change is reflected under the University of Wisconsin System.

Senate/Legislature: Delete provision. The fiscal effects of this deletion are shown under each of the affected state agencies.

2. ELIMINATION OF ENERGY CONSERVATION AND EFFICIENCY PUBLIC BENEFITS PROGRAMS

Assembly: Require DOA to lapse $16,368,800 SEG in 2002-03 to the general fund from customer fees paid to public utilities and transferred to the Department for energy conservation and efficiency and renewable resource public benefits programs. Require DOA to lapse to the general fund in 2002-03 any contributions received from fees collected from members and customers of retail electric cooperatives and municipal utilities where those entities choose not to undertake energy conservation-related commitment to community programs. Under current law, if the retail electric cooperative or municipal utility does not operate such programs, it must remit the customer fees to DOA's public benefits fund.

Effective July 1, 2003, repeal all of the following: (a) the requirement that DOA operate an energy conservation and efficiency and renewable resources public benefits program; (b) the requirement that investor-owned utilities assess a customer fee to help fund DOA's energy conservation and efficiency and renewable resources public benefits program; (c) the requirement that investor-owned utilities transfer to DOA amounts that were expended in the 1998 base year for utility-operated energy conservation and efficiency and renewable resources public benefits program; and (d) the requirement that retail electric cooperatives and municipal utilities operate energy conservation and efficiency programs for their customers. Direct the PSC to determine the amount of 1998 base level energy conservation-related public benefits transition funds that must be retained by investor-owned utilities. Direct DOA to revise, by rule, the maximum amount of customer fees that may be paid to public utilities and transferred to the Department for the continuing low-income public benefits programs. Reduce from $16 per meter to $8 per meter the annual amount that may be charged by a retail electric

cooperative or a municipal utility for the continuing commitment to community low-income programs in these utilities' service areas.

Under current law, DOA is required to establish two public benefits programs. One program provides grant assistance to low-income households for weatherization and other energy conservation services, the payment of energy bills and the early identification and prevention of energy crises. The second program awards grants for energy conservation and efficiency services and for renewable resource programs. This provision would completely eliminate the energy conservation and efficiency services and renewable resource programs.

Budgeted revenues to the energy conservation public benefits program in 2002-03 are $53,017,200. This proposed diversion of $16,368,800 to the general fund in 2002-03 would reduce budgeted revenues to $36,648,400. The diversion of an additional $18,150,000 in 2002-03 for state agency energy costs, proposed under Item #1 above and the diversion of an estimated $5,500,000 in 2002-03, as proposed below in Item #3, would reduce projected net revenues to the energy conservation and related public benefits program to $12,998,400 in 2002-03.

Senate/Legislature: Delete provision.

3. AUTHORITY OF PUBLIC UTILITIES TO RETAIN CERTAIN MAJOR MARKETS PUBLIC BENEFITS TRANSITIONAL FUNDING

	Legislature	Veto (Chg. to Leg)	Net Change
SEG-REV	- $5,500,000	$5,500,000	$0

Assembly: Effective July 1, 2002, authorize a public utility, at its option, to retain that portion of the public benefits energy conservation and efficiency and renewable resource transitional funding that is targeted to commercial and industrial customers within the utility's service area in an amount determined by the Public Service Commission. Specify that any public utility that chooses to retain these funds must still contribute 1.75% of the amount retained to the public benefits fund for research and development in areas of energy conservation and efficiency markets and 4.5% of the amounts retained for renewable resource programs.

Under 1999 Wisconsin Act 9, the PSC was required to identify amounts that major electric and gas utilities collected from their customers in 1998 for low-income energy assistance and weatherization programs and for energy conservation and efficiency, renewable resources and energy conservation research and development programs. Utilities must continue to collect these amounts from their customers, but over a three-year transitional period through 2002, must forward successively larger annual amounts from utility accounts to the state public benefits fund.

A total of $23.1 million for energy conservation activities will be transitioned to the DOA public benefits fund in 2001-02. In 2002-03, this amount will increase to $35.6 million. For a number of public utilities, much of the increase from 2001-02 to 2002-03 is attributable to the transitioning to DOA of funds previously used by the utilities for commercial, industrial and agricultural energy conservation interventions.

It is estimated that this provision would reduce public utility transitional revenues to DOA's energy conservation public benefits fund by $5,500,000 in 2002-03. As a result of provisions described in Item #2 above, public utilities would retain all energy conservation related public benefits transitional revenues beginning July 1, 2003.

Senate/Legislature: Include a provision similar to that of the Assembly, but extend the utility's authority to retain certain major markets public benefits transitional funding only until December 31, 2004.

Veto by Governor [E-5]: Delete provision.

[Act 109 Vetoed Section: 9142(1v)]

4. SUBSTITUTION OF WHEDA GENERAL RESERVE FUNDS FOR CERTAIN GPR-FUNDED HOUSING GRANTS

PR-REV	$4,800,300
GPR	- $4,800,300
PR	4,800,300
Total	$0

Governor: Delete $1,500,000 GPR in 2001-02 and $3,300,300 GPR in 2002-03 under the Department's housing assistance function for housing cost grants and loans to low- and moderate-income families. Direct the Wisconsin Housing and Economic Development Authority (WHEDA) to transfer $1,500,000 in 2001-02 and $3,300,300 in 2002-03 and in every fiscal year thereafter from its unencumbered general reserve fund to DOA for housing grants and loans. Create a new PR-funded biennial appropriation under DOA for this purpose, authorize the payment of housing cost grants and loans from this new appropriation account and provide expenditure authority of $1,500,000 PR in 2001-02 and $3,300,300 PR in 2002-03. See " Wisconsin Housing and Economic Development Authority" for additional information on this proposed transfer from its general reserve fund.

Joint Finance/Legislature: Make the transfer of unencumbered reserves from WHEDA to DOA for housing grants a one-time transfer during the current fiscal biennium. Require DOA to submit a request to the Governor for GPR housing grants funding for the 2003-05 biennium as though $3,300,300 GPR was provided as base level funding. Repeal the new PR-funded biennial PR appropriation on June 30, 2003.

[Act 109 Sections: 15, 15c, 26 (as it relates to s. 20.505(7)(j)), 51, 52, 52c, 366, 366c, 367, 367c, 9101(6z), 9201(1) and 9401(2z)]

5. TERRORISM PREPARATION AND RESPONSE GRANTS [LFB Paper 1101]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	$3,600,000	- $3,600,000	$0

Governor: Provide $3,600,000 in 2001-02 in one-time funding for a terrorism preparation and response grant program administered by the Office of Justice Assistance (OJA). Create a biennial appropriation for this purpose. OJA would be required to provide grants to local emergency planning committees to purchase materials and services for use in investigating, preventing, or responding to acts of terrorism. Materials and services that could be purchased with these funds would include: (a) communications equipment; (b) safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders, or local emergency response team members who respond to emergencies; (c) training related to investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; and (d) information systems, software, or computer equipment for investigating acts of terrorism that pose a threat to the environment. The terrorism preparation and response grant program would be repealed, effective July 1, 2003.

"Act of terrorism" would mean a felony under the criminal penalty chapters, excluding the uniform controlled substances act chapter, that would be committed with an intent to terrorize and would be committed under any of the following circumstances: (a) the person committing the felony caused bodily harm, great bodily harm, or death to another; (b) the person committing the felony caused damage to the property of another and the total property damaged was reduced in value by $25,000 or more (property would be considered reduced in value by the amount that it would cost to either repair or replace it, whichever would be less); or (c) the person committing the felony used force or violence, or the threat of force or violence.

Under current law, a local emergency planning committee is appointed by the county board of supervisors in each county to facilitate the preparation and implementation of an emergency response plan for responding to the release of a hazardous substance.

Joint Finance/Legislature: Delete provision. Instead, direct the Department of Health and Family Services (DHFS) to include, in its plan for the use of one-time federal bioterrorism funds available to the state under P.L. 107-117, to the extent that these activities are eligible for funding, a proposal to allocate up to $3,600,000 of the state's total allocation to fund all of the following: (a) communications equipment; (b) safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders, or local emergency response team members who respond to emergencies; (c) training related to investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; (d) information systems, software, or computer equipment for investigating acts of terrorism that pose a threat to the environment; (e) training for specific special events where heightened security risks exist; (f) hazardous materials response teams or their expansion; and

(g) volunteer emergency medical service entities that are short-staffed or in need of additional training. In addition, require DHFS to submit to the Joint Committee on Finance, for review and approval, its expenditure plan for the federal bioterrorism response and preparedness funds before it submits the plan to the U.S. Department of Health and Human Services (DHHS).

DHHS notified Wisconsin that the state will receive approximately $19.3 million FED for bioterrorism response activities. DHHS has indicated that 20% of this funding will be available to states immediately and the remaining amount will be released subject to federal approval of a plan submitted by states no later than April 15, 2002. The funds must be spent or encumbered by August 30, 2003.

Veto by Governor [C-5]: Delete provision.

[Act 109 Vetoed Section: 9123(2g)]

6. ACROSS-THE-BOARD BUDGET REDUCTIONS

GPR	- $100,900

Governor/Legislature: Reduce following GPR appropriations by a total of $41,300 in 2001-02 and $59,600 in 2002-03. These reductions represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
Comprehensive Planning Operations	-$1,700	-$2,500
Adjudication of Tax Appeals Operations	-20,800	-30,000
Claims Awards	-900	-1,300
Women's Council Operations	-3,600	-5,200
Volunteer Firefighter Awards Operations	-700	-1,100
Office of Justice Assistance Operations	-13,600	-19,500
Total	-$41,300	-$59,600

[Act 109 Sections: 9201(6),(8),(10),(11)&(12) and 9259(8)]

7. GENERAL PROGRAM OPERATIONS FUNDING REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $450,000	- $921,500	$399,700	- $971,800

Governor: Reduce the Department's general program operation appropriation by $200,000 in 2001-02 and $250,000 in 2002-03. These reductions represent 2.5% of the appropriation in 2001-02 and 4.1% of the appropriation in 2002-03.

Joint Finance: Reduce the Department's largest GPR state operations appropriation by an additional $114,200. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Reduce the Department's largest GPR state operations appropriation by a further $224,900 in 2001-02 and $582,400 in 2002-03. These reductions represent an additional 1.7% reduction in 2001-02 and 5.1% in 2002-03 to this appropriation. Provide that the Secretary of DOA may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of these reductions to any of the Department's other sum certain state operations appropriations funded from GPR.

Assembly: Modify the Joint Finance provision by reducing the Department's largest state operations appropriation by an additional $57,100. This amount represents an additional 0.5% reduction in the agency's state operations appropriation in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the Department's other sum certain, state operations appropriation funded from GPR.

Restore $456,800 in 2002-03 to the Department's largest GPR state operations appropriation so that the net across-the-board state operations reduction to the Department would be at 3.5% in 2001-02 and 6.5% in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Modify the Joint Finance provision by reducing the additional cuts to the Department's largest GPR state operations appropriation from $582,400 to $182,700 in 2002-03. As a result, the total reduction to the Department's largest GPR state operations appropriation is $424,900 in 2001-02 and $546,900 in 2002-03, representing a 5.0% reduction in 2001-02 and an 8.3% reduction in 2002-03.

[Act 109 Sections: 9101(6v), 9201(4)&(4v) and 9259(7z)]

8. PROGRAM REVENUE LAPSES [LFB Paper 1121]

	Governor/Leg.	Veto (Chg. to Leg)	Net Change
GPR-REV	$2,864,500	$1,125,000	$3,989,500
PR-Lapse	2,864,500	1,125,000	$3,989,500

Governor/Legislature: Lapse a total of $1,179,500 in 2001-02 and $1,685,000 in 2002-03 to the general fund from the following PR appropriations.

	2001-02	2002-03
Services to Nonstate Governmental Units	$50,000	$50,000
Materials and Services to State Agencies	87,500	125,000
Financial Services	140,000	200,000
Risk Management Program Administration	140,000	200,000
Waste Facility Siting Board Operations	20,000	50,000
Facility Operations and Maintenance	700,000	1,000,000
Parking	42,000	60,000
Total	$1,179,500	$1,685,000

Veto by Governor [E-14]: Delete the requirement that $125,000 be lapsed from the materials and services to state agencies appropriation in 2002-03 and instead require a lapse of $1,250,000 in 2002-03 from that appropriation account. The Governor's partial veto deletes from a nonstatutory schedule of required state agency appropriations lapses a $125,000 lapse in 2002-03 from DOA's materials and services to state agencies appropriation [s. 20.505(1)(ka)], deletes reference to a lapse requirement from the adjacent s. 20.505(1)(ke) telecommunications services appropriation [proposed to be transferred from DEG to DOA] in the same nonstatutory schedule and deletes reference to a $0 lapse requirement in 2001-02 attributable to the same partially vetoed s. 20.505(1)(ke) appropriation. The $1,250,000 lapse requirement amount in 2002-03 in the nonstatutory schedule that was previously attributable to the partially vetoed s. 20.505(1)(ke) appropriation is retained. The effect of these partial vetoes is to newly require that a $1,250,000 lapse in 2002-03 occur from DOA's s. 20.505(1)(ka) materials and services to state agencies appropriation rather than from the vetoed s. 20.505(1)(ke) telecommunications services appropriation. The fiscal effect of deleting the 2002-03 lapse requirement for the telecommunications services appropriation is reflected under Electronic Government. The fiscal effect of substituting a $1,250,000 lapse in 2002-03 for the original $125,000 lapse in 2002-03 from DOA's s. 20.505(1)(ka) materials and services to state agencies appropriation is reflected in this entry.

[Act 109 Section: 9259(1)]

[Act 109 Vetoed Section: 9259(1)(as it relates to s. 20.505(1)(ka)&(ke))]

9. LAPSE OF OIL OVERCHARGE RESTITUTION FUNDS [LFB Paper 1102]

Governor: Lapse $1,000,000 in 2001-02 to the general fund from the Department's oil overcharge restitution funds appropriation. In addition, modify a nonstatutory provision under 1999 Wisconsin Act 113, which directed the allocation of all future unprogrammed oil overcharge restitution funds and associated interest to support energy conservation projects in dwellings with lead paint hazards, to provide instead that all future unprogrammed amounts in excess of $1,000,000 be directed to that purpose. This modification is proposed so that the first $1,000,000 of new unprogrammed oil overcharge restitution funds received by the state would be lapsed to the general fund.

Currently, there are no unprogrammed oil overcharge restitution fund balances. Further, on June 15, 2000, the federal Department of Energy disallowed the use of oil overcharge funds for energy conservation projects in dwellings with lead paint hazards. Consequently, the Act 113 language would not appear to require modification and instead could be repealed.

As a result, the proposed lapse would have the effect of reducing the unexpended cash balances of the restitutionary projects previously recommended by the Governor and approved the Joint Committee on Finance under s. 14.065 of the statutes. DOA would most likely apply the reductions first to those inactive projects whose remaining balances have not yet been proposed for reallocation. As of December 31, 2001, the unexpended cash balance for all projects was $4,998,300.

Under terms of the various court-ordered oil overcharge settlement agreements, funds disbursed by the federal Department of Energy to the states must be used for broadly restitutionary, energy-related purposes. Consequently, if a portion of the available cash balances from approved oil overcharge projects is lapsed to the general fund, the requirement that the moneys be used for restitutionary, energy-related activities would likely continue to apply to the lapsed funds.

Joint Finance/Legislature: Delete provision. Repeal the nonstatutory provision under 1999 Wisconsin Act 113 that directed the allocation of all future unprogrammed oil overcharge restitution funds and associated interest to support energy conservation projects in dwellings with lead paint hazards.

[Act 109 Sections: 44d and 1158b]

10. COMPREHENSIVE PLANNING GRANTS FUNDING REDUCTION

	Governor	Legislature (Chg. to Gov)	Net Change
GPR	- $350,000	$350,000	$0

Governor: Reduce the comprehensive planning grants appropriation by $175,000 annually. This reduction represents 11.7% of the appropriation in each fiscal year.

Assembly: Reduce the comprehensive planning grants appropriation by an additional $75,000 annually. In addition, extend from January 1, 2010, to January 1, 2014, the date by which any program or action of a local unit of government that affects land use must be consistent with the local government's comprehensive plan.

Senate: Increase the comprehensive planning grants appropriation by $250,000 annually.

Conference Committee/Legislature: Delete provision.

11. REGULATION OF RACING AND PARI-MUTUEL WAGERING FUNDING ELIMINATION [LFB Paper 1103]

GPR	- $164,100

Governor: Delete $164,100 in 2002-03 provided to the Division of Gaming for general program operations related to the regulation of racing and pari-mutuel wagering. The GPR appropriation was created in 2001 Wisconsin Act 16 to replace a program revenue reduction resulting from another Act 16 provision allowing Wisconsin racetrack licensees to retain 50% of unclaimed winnings currently paid to the state, effective July 1, 2002. This provision fully eliminates the 2002-03 funding but does not repeal the appropriation.

Joint Finance/Legislature: Modify provision by repealing the GPR appropriation for racing-related regulation.

[Act 109 Sections: 52g, 9201(13) and 9401(3v)]

12. SPECIAL AND EXECUTIVE ORDER COMMITTEES FUNDING REDUCTION

GPR	- $135,000

Governor/Legislature: Reduce the Department's special and executive order committees general program operation appropriation by $135,000 in 2002-03. This reduction represents

37.5% of the appropriation in 2002-03.

[Act 109 Section: 9201(9)]

13. ELIMINATION OF ANNUAL GRANTS TO THE WISCONSIN PATIENT SAFETY INSTITUTE, INC. [LFB Paper 1104]

GPR	- $110,000

Governor: Effective July 1, 2002, delete $110,000 in 2002-03 for a grant to the Wisconsin Patient Safety Institute, Inc. (WPSI), repeal the requirement that DOA make an annual grant to WPSI the for the collection, analysis and dissemination of information about patient safety and for the training of health care providers and their employees regarding improved patient safety, and eliminate the appropriation from which the grants are paid.

Senate: Delete provision.

Conference Committee/Legislature: Include the Governor's recommendation. [A drafting error inadvertently deleted the repeal of the appropriation from which the grants are paid.]

[Act 109 Sections: 16 and 9401(1)]

14. FEDERAL RESOURCE ACQUISITION SUPPORT GRANTS FUNDING ELIMINATION

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- $100,000	$100,000	$0

Governor: Delete funding of $100,000 in 2002-03 for a grant to the Wisconsin Technical College System Foundation, Inc., to support a portion of the Foundation's costs associated with operating a federal surplus property distribution program for government and corporate customers. This provision fully eliminates the 2002-03 funding but does not repeal the appropriation.

Joint Finance/Legislature: Delete provision.

15. STATE CAPITOL POLICE STAFFING INCREASE [LFB Paper 1101]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	$318,000	5.00	- $318,000	- 5.00	$0	0.00

Governor: Provide $79,600 in 2001-02 and $238,400 in 2002-03 and authorize 5.0 police officer positions annually for the State Capitol police. The Department's Bureau of Capitol Police protects state buildings and property, provides security for the Governor and other dignitaries and enforces state parking regulations. The Bureau currently has 61.5 FTE law enforcement personnel in Madison and Milwaukee. The Bureau's personnel are funded from charges assessed against the appropriations that finance the operation of the properties protected by the State Capitol police.

Joint Finance/Legislature: Delete provision.

16. COMMISSION ON LOCAL GOVERNMENT

Governor/Legislature: Create a Commission on Local Government attached to DOA. Specify that the Commission would consist of members appointed by the Governor, who would appoint or determine the method of appointing the Commission's officers and would also call its first meeting. Direct DOA to provide the necessary administrative support services for the Commission and reimburse Commission members for their actual and necessary expenses from the agency's special and executive committees appropriation.

Direct the Commission to: (a) examine the organization, authority and efficiency of local governments, the services provided by each type of local government, and the services required of local governments by the state; (b) review the relationship of local governments with the state, examine spending by local governments, and identify ways to increase efficiency in the delivery of governmental services; and (c) report its findings to the Governor and the Legislature by February 1, 2003. Provide that the Commission would cease to exist upon the submission of its report.

[Act 109 Section: 9101(1)]

17. OFFICE OF FEDERAL-STATE RELATIONS IN WASHINGTON D.C.

Joint Finance: Delete $205,600 GPR and 2.0 GPR positions in 2002-03 for a director and staff assistant assigned to the Office of Federal-State Relations in Washington, D. C. Delete the authority of the Governor to appoint these positions under the unclassified service and repeal

both the assignment of the director to Executive Salary Group 3 and the authority of the appointing authority to set the salaries for these positions. DOA would continue to have the authority to maintain an Office of Federal-State Relations.

Conference Committee/Legislature: Delete provision.

18. LIQUIDATION OF ADDITIONAL WISCONSIN AIR SERVICES AIRCRAFT

Joint Finance/Legislature: Direct DOA to liquidate all but seven of the aircraft currently owned by the state. Authorize the Secretary of DOA to determine which aircraft would be liquidated and stipulate that the agency must offer these planes for sale by June 30, 2003. Specify that the proceeds received from the sale of these aircraft would first pay off the book value of the aircraft with any amounts received in excess of that value lapsed to the general fund.

[Act 109 Section: 9101(7q)]

19. ELIMINATION OF CERTAIN PRINTED PUBLICATIONS

Joint Finance/Legislature: Require DOA to identify all printed publications being prepared by executive branch agencies. Prohibit publications from being produced by any of these agencies unless deemed essential by the Secretary of DOA or required by law or by the Wisconsin Constitution. Require these agencies to submit expenditure estimates for the printing of publications to the Secretary of DOA during the 2001-03 biennium. Except for FED-funded publications, require the Secretary to lapse or transfer to the general fund, the estimated cost of any disapproved publication or printing from an appropriation other than a sum sufficient appropriation. For nonessential publications funded from sum sufficient appropriations, direct the Secretary to reestimate the appropriation and include the revised estimate in the final Chapter 20 appropriations schedule. If an agency's publication is rejected as not being essential, require the state agency to post the information on its Internet site. Require the Secretary of DOA to report to the Joint Committee on Finance on the amount of these savings by July 1, 2002.

Veto by Governor [E-1]: Delete provision.

[Act 109 Vetoed Section: 9101(8z)]

20. REDUCTION OF AGENCY PRINTING EXPENDITURES

Assembly: Require state agencies to reduce their GPR-funded printing costs by 10% in 2002-03, based on 2000-01 actual printing expenditures. Authorize state agencies to count these

reductions as part of their across-the-board state operations reductions. Require state agencies to distribute 10% of their printing in 2002-03 by electronic means. Require state employee pay stubs to be distributed electronically, by July 1, 2003.

Senate/Legislature: Delete provision.

21. PERFORMANCE EVALUATION OFFICE ELIMINATION

	Legislature		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	- $672,800	- 8.00	$672,800	8.00	$0	0.00

Assembly: Delete $672,800 and 8.0 positions in 2002-03 to reflect the elimination of the Performance Evaluation Office attached to the Office of the Secretary of DOA. The Performance Evaluation Office provides audits and evaluation reviews of executive branch agencies, at the direction of the Governor or the Secretary of DOA. The Office is supported through DOA's financial services chargeback appropriation.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [E-2]: Delete provision.

[Act 109 Vetoed Section: 9201(10d)]

22. CENTRAL MOTOR FLEET REDUCTION

Assembly: Require the Department to reduce the number of motor vehicles in the central motor pool to 1,800 by June 30, 2005, and establish this number as a permanent ceiling as of that date.

Senate/Legislature: Delete provision.

23. DOA AND UW-MADISON FLEET MAINTENANCE CONSOLIDATION

Assembly: Require that all of the following UW-Madison vehicle fleet maintenance operations, as determined by the Secretary of DOA, be transferred on the effective date of the budget adjustment act to DOA's fleet maintenance functions: (a) all assets and liabilities; (b) all

tangible personal property, including records; (c) all pending contracts; and (d) all rules, orders and pending matters. Direct DOA to carry out any transferred contractual obligations until the contract is modified or rescinded by DOA, to the extent allowed under the contract.

Require the Board of Regents of the UW-System to submit information in the System's 2003-04 budget request that reflects any saving incurred from consolidation of vehicle fleet maintenance functions under this provision. Require the Board of Regents to fully cooperate with DOA in implementing this consolidation.

Funding and position authority for UW-Madison's vehicle fleet maintenance were previously deleted under 2001 Wisconsin Act 16.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9156(5m)]

24. USE OF PUBLIC BUILDINGS FOR MEETINGS

Assembly: Require meetings, conferences and seminars intended primarily for participation by public employees and that are sponsored by state agencies, including state boards and councils, to use facilities that are owned by the state whenever feasible. Require these agencies to seek a state facility or other public facility that may be used at no charge.

Senate/Legislature: Delete provision.

25. CREATION OF THE DIVISION OF ELECTRONIC GOVERNMENT

	Legislature		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	$131,723,500	225.30	- $131,723,500	- 225.30	$0	0.00

Senate/Legislature: Effective July 1, 2002, provide $131,723,500 and 225.3 positions in 2002-03 for a new Division of Electronic Government in DOA. Eliminate the separate Department of Electronic Government (DEG) and transfer its duties, responsibilities and most of its funding and positions to a new Division of Electronic Government in DOA. The total of the new appropriations related to the DOA Division of Electronic Government would be $512,300 and 5.0 positions less in 2002-03 than the corresponding totals deleted under DEG. This difference is due to the elimination of 5.0 positions and associated funding under the

transfer. Provide that duties and powers currently assigned to the Secretary of DEG would instead be assigned to the division administrator for the new DOA division. (See "Electronic Government.")

The Department of Electronic Government was created by 2001 Wisconsin Act 16 to manage and oversee information technology and telecommunications activities of state agencies and to assist state agencies with information technology issues. Resources for the new Department were originally provided by transferring the funding and staffing associated with two information technology related divisions in the Department of Administration. Under Act 16, total funding for DEG is $132,195,900 PR in 2001-02 and $132,235,800 PR in 2002-03 with 230.3 PR positions annually. DEG's program revenue funding is generated primarily from charges for the utilization of the state's computer utility and telecommunication services. In addition, DEG provides: (a) computer network services for the state District Attorneys supported from penalty assessments, federal Byrne grant funding and justice information system fees; (b) data network services to schools under the TEACH program funded from charges to schools; and (c) telecommunications relay services for the hearing impaired funded from surcharges to telecommunications providers.

Veto by Governor [E-14]: Delete provision. As a result, DEG remains a separate agency.

[Act 109 Vetoed Sections: 7n, 9m, 9n, 10m, 10p, 11n, 13m, 13p, 14b, 14g, 14h, 14i, 17s, 20n, 20p, 20q, 20r, 20sc thru 20tm, 20ts thru 20uL, 23c thru 23m, 23no, 26 (as it relates to s. 20.505 (1)(is), (it),(kg),(kL)&(kr)), 30e, 32nx thru 32om, 44b thru 44ce, 50m, 52h thru 52Ldb, 69m, 72fb thru 72fzn, 84m, 93m, 100nvm, 100nw, 100ok, 100ox, 258y, 346r, 346rh, 346rs, 353m, 362m, 362p, 369p, 512m, 9159(5t), 9201(7q), 9259(1)(a) (as it relates to s. 20.505(1)(ka)&(ke)), 9259(9r) and 9459(3q)]

26. STATE BUDGET OFFICE POSITION REDUCTION

Senate: Delete $900,000 GPR and 13.15 GPR positions in 2002-03 from DOA's Division of Executive Budget and Finance associated with State Budget Office staff.

Conference Committee/Legislature: Delete provision.

27. PROGRAM EVALUATION AND MANAGEMENT AUDIT

Senate/Legislature: Request the Joint Legislative Audit Committee to direct the Legislative Audit Bureau (LAB) to conduct a program evaluation and management audit of the DOA to determine whether state government could function effectively without the Department.

If the audit is undertaken, request the LAB to include each of the following elements to the extent considered appropriate: (a) a comparison of the functions and responsibilities of DOA at the time of its creation compared to its current functions and responsibilities; (b) a review of whether any administrative functions have been removed from DOA since its creation and whether the administrative functions that remain are significant enough to justify a separate agency; (c) a comparison of DOA's central administrative functions, efficiencies and associated budget with those central administration functions, efficiencies and budgets exercised by similar types of agencies in other states; (d) a comparison of the budgeted and the per capita costs of DOA at the time of its creation with the current budgeted and the per capita costs of the Department (including any agencies that have been created from DOA or have taken on former DOA responsibilities); (e) a review of the policy-making responsibilities that have been assigned to DOA over time, including an assessment of whether such responsibilities could be more efficiently administered by other state agencies; (f) an assessment of whether any DOA functions and responsibilities duplicate those of other state agencies and could be reduced or eliminated; (g) a review of whether the efficiencies and costs savings intended by the Legislature and the Governor when DOA was created have been realized; (h) an assessment of whether there are any impediments to decentralizing DOA functions to the Governor's office or to other state agencies; and (i) a review of costs charged by DOA to other state agencies and to local governments and an assessment of whether these functions for which these costs are charged could be effectively undertaken by state government without a separate DOA.

Specify that if the audit is undertaken, the audit report must be submitted by the first day of the ninth month after the general effective date of the bill.

Veto by Governor [E-3]: Delete provision.

[Act 109 Vetoed Section: 9132(1c)]

28. CONTRACTUAL SERVICES CONTRACTS COST REVIEWS

Senate/Legislature: Require DOA to review each proposed contract for contractual services in excess of $150,000, or which DOA estimates would require an expenditure in excess of $150,000, to determine whether the expenditures under the proposed contract would be efficient and cost-effective. Require the Secretary of DOA to submit the results of the agency's review to the Joint Committee on Finance no later than March 1, of each odd-numbered year concerning DOA's determinations issued during the two previous calendar years. This provision would apply to all contracts for contractual services entered into after the general effective date of the budget adjustment act.

Veto by Governor [E-4]: Delete provision.

[Act 109 Vetoed Sections: 20sa, 20sb and 9301(1c)]

29. CREATE WISCONSIN TRIBAL-STATE COUNCIL

	Funding	Positions
PR	$214,300	3.00

Senate: Incorporate the provisions of 2001 Assembly Bill 771 and provide $214,300 and 3.0 positions in 2002-03 for a Wisconsin Tribal-State Council. Funding would be provided from tribal gaming revenue paid to the state under the terms of the state-tribal gaming compacts. Create an appropriation for the general program operations of the council and require that the unencumbered balance on June 30, of each year revert to the Indian gaming receipts appropriation under DOA.

Create a 22-member Wisconsin Tribal-State Council attached to DOA and consisting of the following: (a) eleven members, one each of whom would be appointed by the elected governing body of each of the 11 federally recognized American Indian tribes and bands in this state; (b) three members, appointed by the Governor, representing state departments and agencies that have extensive interactions with tribal governments; (c) the Attorney General or his or her designee; (d) the State Superintendent of Public Instruction or his or her designee; (e) one member of the Senate, appointed by the Senate Majority Leader; (f) one member of the Senate, appointed by the Senate Minority Leader; (g) one member of the Assembly, appointed by the Speaker of the Assembly' (h) one member of the Assembly, appointed by the Assembly Minority Leader; (i) one member, appointed by the Governor, representing a county government; and (j) one member, appointed by the Governor, representing a municipal government. Provide that the members would serve at the pleasure of the appointing authorities.

Provide that at its first meeting in each year, the council must elect one cochairperson from among the members appointed by the 11 federally recognized American Indian tribes and bands in the state and one cochairperson from among the remaining members appointed by other authorities. Allow the council to elect a secretary from among its members. The council would not be allowed to elect a chairperson or vice chairperson. Require the council to meet at least quarterly at a location determined by the council or either cochairperson and require the council to meet at the call of either cochairperson or a majority of its members. The Secretary of DOA would not be allowed to require the council to meet and may not determine the council's meeting place. Provide that either or both cochairpersons may preside at a meeting of the council.

Require the council to appoint an executive director outside the classified service to serve at its pleasure. Provide that the council may set the salary of the executive director, subject to restrictions otherwise set forth in the statutes and the state compensation plan, except where the salary is a subject of bargaining with a certified representative of a collective bargaining unit. Require the council to perform certain functions applicable to other councils under current law, as follows: to advise the head of the Department or independent agency in which the council is created (in this case, the Secretary of DOA) and to function on a continuing basis for the study,

and recommendation of solutions and policy alternatives, of the problems arising in a specified functional area of state government.

Require the council do all of the following: (a) facilitate the resolution of disputes, disagreements, and misunderstandings between state government and tribal governments by coordinating communication between the appropriate representatives of the state and tribal governments; (b) serve as an information clearinghouse regarding state–tribal relations and state programs that affect tribal governments and American Indians; (c) serve as a resource to agencies, authorities, and the legislature on matters involving state–tribal relations, including providing staff support to task forces or committees; (d) monitor state executive branch policies and practices that affect tribal governments and American Indians; (e) develop recommendations for state executive branch policies; (f) monitor agreements between state government and tribal governments; (g) support and coordinate communication between agency and authority liaisons who work with tribes, to promote smooth delivery of state services to tribal governments and American Indians and to avoid duplication of effort and require the council to review the adequacy of existing state liaison positions and recommend any changes in the number of liaison positions as it considers necessary; (h) monitor state legislation that potentially may affect tribal governments or American Indians; (i) develop recommendations for state legislation; (j) provide training to state officials and employees concerning the legal status of American Indian tribes and bands, legal and practical aspects of relations between tribal governments and the state and federal governments, and issues affecting state–tribal relations, provide training to state executive branch officials and employees at least once annually and provide training to state legislators and legislative employees at least once at the start of each legislative session; and (k) in lieu of reports required of other state councils under current law, submit a biennial report on the council's activities to the Governor, to the special committee on state–tribal relations and to the chief clerk of each house of the Legislature for distribution to the appropriate standing committees.

Require all state agencies and authorities to fully cooperate with and assist the council. Provide that a representative of a state agency or authority, upon request of the council or its executive director, would be required to do all of the following: (a) provide information on program policies, procedures, practices, and services affecting American Indians or tribal governments; (b) present recommendations to the council; (c) attend meetings and provide staff assistance needed by the council; and (d) inform the agency or authority of issues concerning the council. An agency would be defined as any office, department, agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including the Legislature and the courts, but not including an authority. An authority would be defined to mean the Wisconsin Health and Educational Facilities Authority, the Bradley Center Sports and Entertainment Corporation; the University of Wisconsin Hospitals and Clinics Authority; the Wisconsin Housing and Economic Development Authority and the World Dairy Center Authority.

Require DOA, in submitting fiscal information relating to the agency's budget request for purposes of the 2003–05 biennial budget bill, to submit a dollar amount for the council's general program operations appropriation that is $15,000 less than the total amount appropriated under the appropriation for the 2002–03 fiscal year, before submitting any information relating to any increase or decrease in the dollar amount for that appropriation for the 2003–05 fiscal biennium. This provision reflects the removal of one-time funding that would be provided for the Council in 2002-03.

Conference Committee/Legislature: Delete provision.

30. RAFFLE TICKET MAXIMUM SALES PERIOD

Senate/Legislature: Provide that raffle tickets under a Class A license (which allows tickets to be sold on days preceding the drawing) may not be offered for sale more than 270 days before the raffle drawing. Under current law, tickets for a proposed raffle under a Class A license may not be offered for sale more than 180 days before the raffle drawing.

[Act 109 Section: 506r]

ADOLESCENT PREGNANCY PREVENTION AND PREGNANCY SERVICES BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $9,500	- $200	$100	- $9,600

Governor: Reduce the following GPR appropriations by a total of $3,900 in 2001-02 and $5,600 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	- $800	- $1,200
Grants to Organizations	-3,100	-4,400
Total	-$3,900	-$5,600

Joint Finance: Include the Governor's provision. In addition, reduce the Board's GPR state operations appropriation by an additional $200 in 2002-03. This amount represents an additional 1% reduction in the Board's state operations appropriation in 2002-03.

Assembly: Reduce the Board's GPR state operations appropriation by an additional $100 in 2002-03. This amount represents an additional 0.5% reduction in the Board's state operations appropriation in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision. However, the enrolled bill reduces the Board's 2002-03 general program operations appropriation by $1,300, rather than by $1,500, as provided under the Conference Committee amendment.

[Act 109 Sections: 9202(1)&(2)]

AGRICULTURE, TRADE AND CONSUMER PROTECTION

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $1,582,200	- $196,700	- $98,300	- $1,877,200

Governor: Reduce the GPR appropriations shown in the table by a total of $596,700 in 2001-02 and $985,500 in 2002-03. The sum of the GPR amounts deleted by the bill in this item and the two following items combined would represent a reduction of 3.5% in 2001-02 and 5.0%

in 2002-03 of all DATCP GPR appropriations under Act 16, excluding debt service. However, the percentage reduction in individual GPR appropriations varies from these amounts.

	Reduction Amount	
	2001-02	2002-03
Payments to Ethanol Producers	$0	- $55,000
Animal Health Services	- 27,100	- 112,200
Marketing Services Operations	- 203,900	- 275,000
Aid to Wisconsin Livestock Breeders Association	0	- 2,000
Aids to County and District Fairs	- 20,500	- 29,300
Agricultural Diversification Grants	- 15,400	- 20,000
Farmer Tuition Assistance Grants	- 200	- 300
Aids to World Dairy Expo, Inc.	- 900	- 1,300
Agricultural Resource Mgmt.	- 22,400	- 36,400
Soil and Water Resource Management Grants	- 205,600	- 293,800
Drainage Board Grants	- 17,500	- 25,000
Central Administrative Services	- 83,200	- 135,200
Total	- $596,700	- $985,500

Joint Finance: Reduce the Department's largest GPR state operations appropriation by an additional $196,700. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Reduce the Department's largest GPR state operations appropriation by an additional $98,300. This amount represents an additional 0.5% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Senate: Delete Assembly provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9204(3) thru (14) and 9259(7z)]

2. ELIMINATE DANE COUNTY EXPOSITION CENTER GRANT [LFB Paper 1110]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR	- $480,000	$480,000	$0

Governor: Eliminate a $240,000 annual grant to Dane County for the County's exposition center (the Alliant Energy Center). Since fiscal year 1994-95, DATCP has annually granted Dane County $240,000 to assist in paying the debt service costs for the 1995 expansion related to hosting the annual World Dairy Expo at the exposition center.

Senate/Legislature: Delete provision.

3. CONSUMER PROTECTION APPROPRIATION CONSOLIDATION

GPR	- $346,700

Governor/Legislature: Eliminate an appropriation for automobile repair regulation ($308,000 annually) and increase a food safety and consumer protection appropriation ($175,900 in 2001-02 and $93,400 in 2002-03) in order to consolidate automobile repair regulation activities within the agency's main food safety and consumer protection appropriation. The 4.0 positions related to automobile repair regulation also would be transferred to the food safety and consumer protection appropriation. The net reduction of $132,100 in 2001-02 and $214,600 in 2002-03 from this consolidation represents 1.5% of these two appropriations in 2001-02 and 2.5% in 2002-03.

[Act 109 Sections: 27 and 9204(2)]

4. PROGRAM REVENUE LAPSES [LFB Paper 1121]

GPR-REV	$331,900
PR-Lapse	331,900

Governor/Legislature: Lapse a total of $136,700 in 2001-02 and $195,200 in 2002-03 to the general fund from the following PR appropriations.

	2001-02	2002-03
Food and Trade Regulation Services	$5,000	$0
Food Regulation	0	118,100
Ozone-depleting Refrigerants Regulation	22,100	31,600
Food Safety & Consumer Protection Information Sales	4,000	0
Consumer Protection, Information and Education	4,000	0
Dog Licenses, Rabies Control and Related Services	4,700	0
Marketing Orders and Agreements	10,000	0
Something Special From Wisconsin Promotion	5,000	0
Fertilizer Research Assessments	35,000	0
Plant Protection	24,300	34,700
General Laboratory Related Services	7,600	10,800
State Services	15,000	0
Total	$136,700	$195,200

[Act 109 Section: 9259(1)]

5. NONPOINT ACCOUNT BUDGET REDUCTION [LFB Paper 1121]

SEG	- $369,300

Governor/Legislature: Delete $123,100 in 2001-02 and $246,200 in 2002-03 from DATCP's soil and water resource management appropriation funded from the segregated nonpoint account of the environmental fund. These amounts represent 2.5% of the appropriation in 2001-02 and 5% in 2002-03. The appropriation provides both DATCP administrative funding and grants to counties for staffing and cost-shares. [See "Natural Resources" for additional information on the nonpoint account.]

[Act 109 Section: 9204(1)]

6. LIVESTOCK REGULATION AND TRACKING

PR	$150,000
SEG	150,000
Total	$300,000

Joint Finance/Legislature: Require the Department of Natural Resources to enter into a contract with DATCP for the purpose of enhancing the protection of the health of wild and domestic animals in the state. Under the contract, allow DNR to provide $150,000 SEG in 2002-03 from the fish and wildlife account of the conservation fund to DATCP for animal health regulation, including improving DATCP's livestock farm location and livestock tracking databases and studying the implementation of an electronic system for certification of veterinary inspection. Further, provide DATCP $150,000 PR in 2002-03 for these purposes. On July 1, 2003, delete DNR's authority to provide funding under the contract.

Require DATCP to impose the same requirements on the intrastate transportation of white-tailed deer that it imposes on the intrastate transportation of other cervids. The current DATCP rule generally prohibits a person from moving any live cervid (except white-tailed deer)

between locations in Wisconsin unless it is accompanied by a certificate of veterinary inspection signed by a Wisconsin certified veterinarian that states that the cervid tested negative on an approved tuberculosis test not more than 90 days prior to the intrastate movement.

Expand the duties of DATCP relating to animal health quarantines to allow the Department to implement a quarantine to protect the health of all animals located in the state (rather than just domestic animals) and to protect the health of Wisconsin residents.

[Act 109 Sections: 36d, 36db, 259r, 259s, 260p, 9137(1w), 9237(35w) and 9437(1w)]

7. THREATENING TO INFECT ANIMALS WITH DISEASE

Assembly: Include the provisions of Assembly Bill 635, as amended by Assembly Amendment 1. Set a penalty of a Class H felony for anyone who intentionally threatens to introduce a contagious or infectious disease into livestock (cattle, horses, swine, sheep, goats, farm-raised deer, poultry, or other animal to be used in the production of food, fiber or other commercial product) located in this state without the consent of the owner of the livestock if either: (a) the owner of the livestock is aware of the threat and reasonably believes that the actor will attempt to carry out the threat; or (b) the owner of the livestock is unaware of the threat, but if the owner were apprised of the threat, it would be reasonable for the owner to believe that the actor would attempt to carry out the threat.

Further, set a penalty of a Class H felony for anyone who intentionally threatens to introduce a contagious or infectious disease into wild deer located in this state without the consent of the Department of Natural Resources if either: (a) DNR is aware of the threat and reasonably believes that the actor will attempt to carry out the threat; or (b) DNR is unaware of the threat, but if the Department were apprised of the threat, it would be reasonable for DNR to believe that the actor would attempt to carry out the threat.

Under the bill, a Class H felony is punishable by a total sentence of 6 years, including up to 3 years in prison.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 812t thru 812v]

8. RECKLESSLY INFECTING ANIMALS WITH A CONTAGIOUS DISEASE

Assembly: Include the provisions of Assembly Bill 686, as amended by Assembly Amendment 1. Unless an actor's conduct is undertaken pursuant to a directive issued by DATCP or an agreement between the actor and DATCP for the purpose of preventing or controlling the spread of the disease, set a penalty of a Class A misdemeanor (up to nine months in the county jail) for anyone who, through reckless conduct: (a) introduces a contagious or infectious disease other than paratuberculosis (Johne's disease) into livestock (cattle, horses, swine, sheep, goats, farm-raised deer, poultry, or other animal to be used in the production of food, fiber or other commercial product) without the consent of the owner; or (b) introduces a contagious or infectious disease other than paratuberculosis into wild deer without the consent of the Department of Natural Resources.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 535m, 810g thru 810n and 812m]

9. AGRICULTURAL CHEMICAL PROGRAM

Assembly: Include the provisions of Assembly Bill 800, as amended by LRBa 1380/2 to do the following:

Increase the following fees that are deposited to the agrichemical management (ACM) fund: (a) fertilizer tonnage fees from 30¢ to 45¢ per ton for fertilizer sold or distributed after June 30, 2006 (increase of $195,000 annually beginning in 2007-08); (b) application fee for a mixed nonagricultural or special-use fertilizer from $25 to $100 until June 30, 2004 (increase of $9,000 in 2002-03 and again in 2003-04), after which the fee would return to $25; and (c) a feed inspection fee from 23¢ to 28¢ per ton (with a minimum fee of $30) for commercial feeds distributed in this state between January 1, 2003 and December 31, 2003 (one-time increase of $150,000 in 2003-04), after which the fee would return to 23¢ per ton.

Decrease revenues deposited in the segregated environmental management account of the environmental fund effective July 1, 2003. Beginning in fiscal year 2003-04, revenues would be expected annually to decline by $748,000 from approximately $1,288,000 currently to $540,000. The changes would include: (a) decrease the fee deposited in the environmental management account for each household pesticide by $64, from $124 to $60 (decrease of $341,400 annually); (b) decrease the fee deposited in the environmental management account for each industrial pesticide by $34, from $94 to $60 (decrease of $29,100 annually); and (c) eliminate the deposit of the $94 fee for each nonhousehold pesticide in the environmental

management account (decrease of $377,500 annually). These decreased revenues in the environmental fund would be offset by an equivalent increase in revenues to the ACM fund.

Increase the fertilizer tonnage surcharge from 38¢ to 88¢ per ton for fertilizer sold or distributed in the state, unless DATCP establishes a lower surcharge by rule (increase of up to $650,000 annually, however, the current surcharge under DATCP rule of 38¢ per ton would remain in effect until changed by rule). This surcharge is deposited to the agricultural chemical cleanup program (ACCP) fund. Further, for costs incurred beginning January 1, 2003, lower the ACCP reimbursement rate from 80% to 75% of the corrective action eligible costs (expenditure reduction of $180,000 annually). In addition, lower the required balance in the ACCP fund from between $2 million and $5 million to an amount of not more than $3 million.

As of December 1, 2003, specify that the amount of the nonhousehold pesticide surcharge paid to the ACCP fund, and the amount of the wood preservative cleanup surcharge paid to the environmental management account of the environmental fund, be based on sales of nonhousehold pesticide products during the 12 months ending on September 30 of the calendar year for which a license is sought (the payment period). Require an applicant to pay an estimated surcharge before the start of each license year (rather than based on prior year sales as under current law) and to make a surcharge adjustment payment before the end of the license year if required by DATCP.

As of December 1, 2003, before the start of a license year, require a pesticide manufacturer or labeler applicant to estimate the gross revenues that the applicant will receive from sales of each pesticide product during the payment period that ends during the year for which a license is sought and to pay household, nonhousehold, industrial and wood preservative fees and surcharges based on that estimate. At least 15 days before beginning to sell a new pesticide product in this state, require a licensee to estimate the gross revenues that the applicant will receive from sales of that pesticide product during the payment period in which the licensee begins to sell the pesticide product and to pay the fees and surcharges based on that estimate. Before the end of a license year, require a licensee to report to DATCP the gross revenues that the licensee received from sales of each pesticide product during the payment period that ended during the license year, and to reconcile the estimated payment made with the amounts actually due. Specify the following procedure for reconciling payments: (a) if the amount due based on actual sales is greater than the amount paid based on estimated sales, require the licensee to pay the additional amount due; (b) if the amount due based on actual sales is less than the amount paid based on estimated sales, allow the licensee to request DATCP to reimburse the licensee for the amount of the overpayment; and (c) if the amount due based on actual sales equals the amount paid based on estimated sales, require no action. Unless a licensee's payments are based on estimates of gross revenues from sales for each pesticide product that equal at least 90% of the licensee's gross revenues from sales of the pesticide product during the preceding year, require a licensee to pay a penalty equal to 20% of the difference between the estimated and actual sales if the difference is more than 20% of the total amount paid at the beginning of the year. Specify that this penalty is in addition to any late filing fee assessed by DATCP.

The bill would increase revenues deposited in the ACM fund through increased and transferred tonnage and permit fees by $9,000 in 2002-03, $907,000 in 2003-04, $748,000 annually from 2004 to 2007 and $943,000 annually beginning in 2007-08. Revenues to the environmental management account of the environmental fund would be reduced by approximately $748,000 annually beginning in 2003-04. The bill also would authorize DATCP to increase by rule fertilizer tonnage fees deposited in the ACCP fund by up to 50¢ per ton (increase of up to $650,000 annually).

Senate/Legislature: Delete provision.

10. ETHANOL PRODUCER GRANT PROGRAM

Senate: Delete the ethanol producer grant program created in 1999 Act 55, including 2002-03 appropriations of $1,045,000 GPR and $1,900,000 PR from tribal gaming revenue. Under current law, ethanol producers are eligible for annual payments of 20¢ per gallon of ethanol produced for up to 15 million gallons ($3 million per producer maximum). Payments are prorated if funding is insufficient to pay all claims.

Conference Committee/Legislature: Delete provision.

11. TRANSFER CONSUMER PROTECTION FUNCTIONS

	Legislature		Veto (Chg. to Leg.)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $1,082,300	- 17.75	$1,082,300	17.75	$0	0.00
PR	175,000	0.00	- 175,000	0.00	0	0.00
Total	- $907,300	- 17.75	$907,300	17.75	$0	0.00

Senate/Legislature: Delete $1,524,700 GPR and 28.25 GPR consumer protection positions from DATCP in 2002-03 (0.45 division administrator, 0.3 budget policy supervisor, 0.5 communications specialist, 0.75 bureau director, 9.65 consumer protection investigators, 3.0 investigator supervisors, 5.65 consumer specialists, 0.5 legal secretary, 0.8 program and policy analyst and 6.65 program assistants).

In addition, transfer $1,059,800 GPR and 15.5 GPR consumer protection positions from DATCP to the Department of Justice (DOJ) in 2002-03 (2.0 attorneys, 1.0 consumer complaint supervisor, 4.0 consumer protection investigators, 1.0 investigator supervisor, 5.5 consumer specialists and 2.0 program assistants). Moreover, transfer $230,900 PR and 5.5 PR positions from DATCP to DOJ in 2002-03 for the creation and maintenance of a telephone nonsolicitation directory. Fees are paid through a telephone solicitor registration system.

Further, provide DOJ $442,400 GPR and 10.5 GPR consumer protection positions in 2002-03 (8.5 consumer specialists and 2.0 paralegals).

On the day after publication of the act, transfer Department of Health and Family Services' authority and related administrative rules for fitness center staff requirements under s. 100.178 and all of DATCP's authority and related administrative rules for the following statutory sections to DOJ:

100.15	Regulation of trading stamps
100.16	Selling with pretense of prize; in-pack chance promotion exception
100.17	Guessing contests
100.171	Prize notices
100.173	Ticket refunds
100.174	Mail-order sales regulated
100.175	Dating service contracts
100.177	Fitness center and weight reduction center contracts
100.18	Fraudulent representations
100.182	Fraudulent drug advertising
100.20	Methods of competition and trade practices
100.205	Motor vehicle rustproofing warranties
100.207	Telecommunications services
100.208	Unfair trade practices in telecommunications
100.209	Cable television subscriber rights
100.2095	Labeling of bedding
100.28	Sale of cleaning agents and water conditioners containing phosphorus
100.31	Unfair discrimination in drug pricing
100.37	Hazardous substances act
100.38	Antifreeze
100.41	Flammable fabrics
100.42	Product safety
100.43	Packaging standards; poison prevention
100.44	Identification and notice of replacement part manufacturer
100.46	Energy consuming products
100.50	Products containing or made with ozone-depleting substances
100.52	Telephone solicitations
Chap 136	Future service plans
Chap 344	Vehicle financial responsibility
Chap 704	Landlord and tenant
Chap 707	Timeshares
Chap 779	Liens

In addition, transfer DATCP's current authority to file court actions in all other Chapter 100 (Marketing; Trade Practices) sections to DOJ. Further, require DOJ to represent DATCP in any court action relating to the enforcement of Chapter 100, and remove DATCP's authority to be represented by its attorneys or to appoint special counsel to prosecute or assist in the prosecution of all cases arising under Chapter 100 of the statutes, except for s. 100.206 (music royalty collections; fair practices), s. 100.21 (substantiation of energy savings or safety claims), s. 100.30 (unfair sales act) and s. 100.51 (motor fuel dealerships). Under the provision, DATCP would be allowed to continue to commence an action in court to recover allowed claims on behalf of vegetable producers.

Allow DOJ (rather than DATCP) to enjoin a violation of milk payment audit requirements upon DATCP request. Further, require the Department of Commerce to consult with DOJ (rather than DATCP) when establishing rules relating to quality standards for local energy resource systems. Require DATCP to consult with DOJ in developing license applications and other forms required for pawnbrokers, secondhand article dealers and secondhand jewelry dealers.

In addition, beginning on the day after publication of the act, require that DOJ, instead of DATCP, be awarded consumer protection assessments on all fines and forfeitures for violations under Chapter 100 or corresponding rules or ordinances. Provide DOJ $175,000 PR in 2002-03 in a new, annual appropriation and require that any revenue received from these assessments that exceeds $185,000 in any fiscal year be deposited to the state's general fund. In addition to other allowable penalties, allow the court to award the reasonable and necessary costs of investigation and an amount reasonably necessary to remedy the harmful effects of the violation from any person who violates Chapter 100 provisions. Require that all of these monies that the court awards be deposited in the state's general fund, and require 10% of the money deposited in the general fund for the costs of investigation and the expenses of prosecution, including attorney fees, to be credited to a current DOJ investigation and prosecution appropriation.

Transfer the assets, liabilities and obligations primarily associated with the transferred consumer protection functions from DATCP to DOJ on the day after publication of the act. Provide that the incumbent DATCP employees who would be transferred to DOJ would maintain all their civil service and other employee rights held prior to transfer. Further, transfer all tangible personal property, records, pending matters, contracts and contract responsibilities relating to transferred consumer protection provisions and specify that all rules and orders relating to the transferred consumer protection provisions remain in effect until their specified expiration date or until modified or rescinded by DOJ. Provide that if the Departments were unable to agree on an equitable division or transfer of staff, the Secretary of Administration would settle the dispute. Further, provide that if either Department is dissatisfied with the Secretary's decision, the Department could bring the matter to the Joint Committee on Finance for affirmation or modification of the decision.

Under the provision, DOJ would have 40.8 positions related to consumer protection, as shown in the following table.

Position Titles	Current DATCP	Eliminated DATCP	Transferred to DOJ	Current DOJ	New DOJ	Bill DOJ
Administrator	0.45	-0.45				
Attorney	2.00		2.00	4.80		6.80
Budget Policy Supervisor	0.30	-0.30				
Communications Specialist	0.50	-0.50				
Consumer Complaint Supervisor	1.00		1.00			1.00
Consumer Protection Bureau Director	0.75	-0.75				
Consumer Protection Investigator	13.65	-9.65	4.00	2.00		6.00
Consumer Protection Investigator Supervisor	4.00	-3.00	1.00			1.00
Consumer Specialist	11.15	-5.65	5.50		8.50	14.00
Legal Assistant				0.50		0.50
Legal Secretary	0.50	-0.50		1.00		1.00
Paralegal				1.00	2.00	3.00
Program & Planning Analyst	0.80	-0.80				
Program Assistant	8.65	-6.65	2.00			2.00
Telephone Solicitation	5.50		5.50			5.50
Total Consumer Protection Positions	49.25	-28.25	21.00	9.30	10.50	40.80

Veto by Governor [B-1]: Delete provision.

[Act 109 Vetoed Sections: 26 (as it relates to s. 20.455(1)(g)), 27m, 28m, 41g, 41k, 41mp, 259m, 259sd thru 259sp, 262m, 263bb thru 263pv, 264d thru 264t, 266m, 267kb thru 267kz, 269m, 312m, 314m thru 314r, 338gf thru 338r, 442g thru 442r, 511bg thru 511p, 516g thru 516r, 9104(4xv), 9131(2xz), 9204(14xz), 9231(10xo) and 9404(1xo)]

12. TRANSFER LAND AND WATER RESOURCES FUNCTIONS

Senate: Effective July 1, 2002, reassign the tasks and programs in the DATCP Land and Water Resources Bureau to University of Wisconsin-Extension (UW-Extension), Department of Natural Resources (DNR) and DATCP's office of policy and program analysis attached to the Secretary's office, as follows:

Transfer $205,300 GPR and 2.3 GPR positions, $211,100 PR and 3.0 PR positions from revenue for services performed for other state agencies and $836,700 SEG and 9.5 SEG positions from the nonpoint account of the environmental fund from DATCP to UW-Extension. The 14.8 transferred positions and $1,253,100 in funding generally would be used for transferred duties related to performance standard evaluation, land and water resource management plan implementation, county agency liaison work, soil erosion control and conservation engineering responsibilities.

In addition, transfer administrative funding of $237,600 GPR and 3.575 GPR positions, $40,800 PR and 0.75 PR positions from the preparation of agricultural impact statements (this funding is partially used for administering a portion of the Conservation Reserve Enhancement Program (CREP)) and $68,100 SEG and 1.5 SEG positions from the nonpoint account of the environmental fund from DATCP to DNR. The transferred 5.825 positions and $346,500 in funding would be used for administering transferred soil and water resource management (SWRM) grants and programs, including providing technical assistance to counties, drainage districts (under Chapter 88) and CREP (under s. 93.70). Further, transfer all remaining SWRM bonding authority, along with SWRM debt service funding estimated at $365,600 GPR, and grant funding (used for cost-share and staffing grants to counties) of $5,581,900 GPR and $3,725,100 nonpoint SEG from DATCP to DNR. In addition, transfer $475,000 GPR for grants to drainage districts and all remaining CREP bonding authority, along with CREP debt service funding estimated at $262,000 GPR in 2002-03 from DATCP to DNR.

Further, delete $101,800 GPR and 1.0 Land and Water Resources Bureau Director position from DATCP. The 7.38 remaining positions and $454,000 in related funding and authority in the Department's Land and Water Resources Bureau in the Agriculture Resource Management Division would be reallocated to DATCP's office of policy and program analysis. The responsibilities remaining within DATCP would include farmland preservation, agricultural impact statements and livestock ordinances. The position and funding changes are summarized in the following table.

	Positions	Amount
Transfer to UW-Extension	14.800	$1,253,100
Transfer to DNR	5.825	10,756,100
Delete from DATCP	-21.625	-12,111,000
Total	-1.000	-$101,800

Under the proposal, UW-Extension would perform all duties related to DATCP's current conservation engineering section, assisting land conservation committees in preparing land and water resource management plans, soil erosion control, and federal and county liaison work currently performed by the Land and Water Resources Bureau.

Establish DNR, rather than DATCP, as the central agency responsible for setting and implementing statewide soil and water conservation policies and programs. Generally transfer DATCP authority to DNR under Chapter 92 of the statutes (Soil and Water Conservation and Animal Waste Management), except for those provisions listed above that would be under the responsibility of UW-Extension and for s. 92.15 relating to local regulation of livestock operations, which would remain in DATCP. Further, transfer DATCP authority to DNR for agricultural-related performance standards under s. 281.16(3), and require DNR to consult with UW-Extension in developing and implementing the standards. Further, require DNR to consult with UW-Extension about the administration of the land and water resource management

planning program. Remove provisions that require DATCP and DNR to work together on various soil and water resource management and nonpoint issues, such as providing grants to counties. Attach the Land and Water Conservation Board to DNR rather than DATCP.

Require UW-Extension (rather than DATCP), in conjunction with DNR, to assist counties in implementing land and water conservation activities that use DNR funding, and require UW-Extension to assist DNR in the administration of the soil and water resource management program. Transfer authority from DATCP to UW-Extension in matters shared under s. 281.20 regarding DNR issuance of orders to abate nonpoint pollution and under 281.65 regarding providing financial assistance under the nonpoint source water pollution abatement program. In addition, require UW-Extension, rather than DATCP, to assist DNR in applying for federal grants for nonpoint funding, promulgating rules for nonpoint pollution abatement, incorporating appropriate best management practices into priority watershed plans, planning under the original nonpoint source pollution priority watershed program and providing notices and hearings for critical sites.

Transfer the assets, liabilities and obligations primarily associated with the transferred conservation engineering section and the soil erosion control and federal and county liaison functions of the Land and Water Resources Bureau's conservation management section from DATCP to UW-Extension on July 1, 2002. Provide that the incumbent DATCP employees who would be transferred to UW-Extension would maintain all their civil service and other employee rights held prior to transfer. Further, transfer all tangible personal property, records, pending matters, contracts and contract responsibilities relating to provisions transferred to UW-Extension, and specify that all rules and orders relating to the transferred provisions remain in effect until their specified expiration date or until modified or rescinded by UW-Extension. Provide that the Secretary of Administration determine what specifically would be transferred.

Transfer the assets, liabilities and obligations primarily associated with the transferred CREP program, the land and water resource management planning functions of the Land and Water Resources Bureau's conservation management section, and the grant administration and drainage district program functions of the Bureau's resource evaluation and grants section from DATCP to DNR on July 1, 2002. Provide that the incumbent DATCP employees who would be transferred to DNR would maintain all their civil service and other employee rights held prior to transfer. Further, transfer all tangible personal property, records, pending matters, contracts and contract responsibilities relating to provisions transferred to DNR, and specify that all rules and orders relating to the transferred provisions remain in effect until their specified expiration date or until modified or rescinded by DNR. Provide that the Secretary of Administration determine what specifically would be transferred.

Conference Committee/Legislature: Delete provision.

13. TELECOMMUNICATION CONSUMER PROTECTION

Assembly: Prohibit a telecommunications provider from providing a telecommunications service to a customer unless all of the following apply: (a) the telecommunications provider reasonably believes that the customer knowingly consented to receive the service; (b) the provider confirms with the customer (before providing the service) that the customer knowingly consented to receive the service; and (c) when the confirmation is provided, the provider informs the customer that he or she may withdraw consent for the service before it is activated. Specify that the customer must be informed of the manner by which that consent may be withdrawn.

Prohibit a telecommunications provider from placing in a service contract a clause that provides that the laws of any state other than Wisconsin apply to the parties or terms of the contract or to any right or remedy under the contract, unless the law of the other state conforms to Wisconsin law.

Prohibit a telecommunications provider from billing a customer for goods or services that are not telecommunications services unless all of the following apply: (a) the provider reasonably believes that the customer knowingly consented to the billing and (b) the provider confirms with the customer that consent. Where a customer consents to the goods or services, require the provider to conspicuously distinguish on the bill between the billing for telecommunications services and the other goods or services and, if requested, to provide a detailed itemized listing of the charges for those goods or services. Require a telecommunications provider to maintain each billing and collection record that is made in providing telecommunications service in Wisconsin for five years from when the record is made.

Provide DATCP with the authority to issue civil investigative demands related to the enforcement of the agency's duties under Chapters 93 to 100 of the statues, and require an individual to provide originals or copies of documents, records or reports in the person's custody, answer specific questions submitted by the Department and allow employees of the Department to review documents in the person's custody. Further, specify that any person who has been served with a DATCP complaint be subject to the Department's authority and jurisdiction, not to exceed the jurisdiction granted to courts to carry out judgments. Include failing to comply with a subpoena, order or civil investigative demand among the reasons (along with failing to attend as a witness or refusing to testify under current law) that a person may be coerced to comply with such demands.

Senate: Prohibit a person from enrolling a customer in any telecommunications service that the customer did not affirmatively order, unless that service is required to be provided by law. Clarify that a customer's request to be enrolled in a particular telecommunications service is an affirmative request to be enrolled only in that particular telecommunications service. Require DATCP to administer and enforce the Federal Communications Commission's (FCC)

unauthorized carrier change rules and remedies and to notify the FCC of its intention to do so. Further, require DATCP to promulgate rules that are consistent with these FCC rules. Specify that temporary injunctive relief as a result of practices that may violate telecommunications or public utility regulations may include an order requiring a telecommunications provider to deposit in an escrow account any payments that the provider has or is expected to receive from customers as a result of the questionable practices. Further, increase forfeitures for violations of telecommunications statutes from $5,000 to $10,000 for each offense, and specify that each day of violation constitutes a separate offense. Provisions in this paragraph would first apply beginning on the first day of the 10th month after publication.

Prohibit a telecommunications provider from billing a customer for goods or services that are not telecommunications services, unless the customer consented to the billing. If a customer consents to the goods or services, require the provider to: (a) conspicuously distinguish on the bill between the billing for telecommunications services and the other goods or services; (b) if requested, provide a detailed itemized listing of the charges for those goods or services; and (c) disclose to the customer at the time of each billing that the customer's telecommunications service will not be affected due to a failure to pay the billing. Require a telecommunications provider to maintain each billing and collection record that is made in providing telecommunications service in Wisconsin for five years from when the record is made.

Prohibit a telecommunications provider from placing in a service contract a clause that provides that the laws of any state other than Wisconsin apply to the parties or terms of the contract or to any right or remedy under the contract, unless the law of the other state conforms to Wisconsin law.

Provide DATCP with the authority to issue civil investigative demands related to the enforcement of the agency's duties under Chapters 93 to 100 of the statutes, and require an individual to provide originals or copies of documents, records or reports in the person's custody, answer specific questions submitted by the Department and allow employees of the Department to review documents in the person's custody. Further, specify that any person who has been served with a DATCP complaint be subject to the Department's authority and jurisdiction, not to exceed the jurisdiction granted to courts to carry out judgments. Include failing to comply with a subpoena, order or civil investigative demand among the reasons (along with failing to attend as a witness or refusing to testify under current law) that a person may be coerced to comply with such demands.

Conference Committee/Legislature: Delete provisions (maintain current law).

14. TELEPHONE SOLICITATION PENALTIES

Senate: Change the penalty for certain telephone solicitation violations from a forfeiture not to exceed $100 currently to a forfeiture of between $100 to $1,000 for each violation by a

telephone solicitor of the following prohibitions and requirements: (a) unless a telephone solicitation is made in response to the recipient's express written request for the solicitation or is made to a recipient who is a current client (not including a recipient who is a current client of an affiliate of such a person, but is not a current client of such a person) of the person selling the item or requesting the contribution that is the reason for the telephone solicitation, prohibit a telephone solicitor or their employee or contractor from making a telephone solicitation to a residential customer if the nonsolicitation directory includes a listing for the residential customer or from making a telephone solicitation to a nonresidential customer if the nonresidential customer has provided notice by mail to the telephone solicitor that the nonresidential customer does not wish to receive telephone solicitations; (b) prohibit telephone solicitors (or their contractors) from using an electronically prerecorded message without the consent of the recipient of the telephone call; (c) prohibit a telephone solicitor from requiring an employee or contractor to make a telephone solicitation in violation of these requirements or to make a telephone solicitation to a person in Wisconsin unless the telephone solicitor is registered with DATCP; and (d) upon request by a nonresidential customer, require a telephone solicitor, their employee or contractor, to provide the mailing address for notifying the telephone solicitor that the nonresidential customer does not wish to receive telephone solicitations. Further, require that if the violator knows the customer called in violation of these telephone solicitation regulations is an elderly or disabled person, or if the violation causes economic, emotional or physical damage to one of these persons, a supplemental forfeiture of up to $10,000 be assessed.

Change the forfeiture amount from $100 currently to allow a forfeiture of between $100 and $500 for each violation of 2001 Act 16 provisions (other than those noted above) related to telephone solicitation requirements.

The enrolled 2001-03 biennial budget bill would have set forfeitures for violators of telephone solicitation regulations of $1,000 to $10,000 or from $100 to $500, depending on the violation, and created a supplemental forfeiture for violations against an elderly or disabled person. The Governor's item vetoes reduced these forfeitures to $100 per violation and deleted the supplemental forfeiture provision. The provision sets forfeitures for violators of telephone solicitation regulations of $100 to $1,000 and from $100 to $500 respectively per violation and restores the supplemental forfeiture provision.

Conference Committee/Legislature: Delete provision.

15. MILWAUKEE AREA DOMESTIC ANIMAL CONTROL COMMISSION

Senate: Include the provisions of 2001 Senate Bill 402, as amended by Senate Amendment 1 to do the following, effective January 1, 2003:

Specify that an intergovernmental commission is a commission formed by contract between all municipalities in a county with a population of over 500,000 (Milwaukee County) to provide animal control services. In a county in which an intergovernmental commission agreement is in effect, allow the commission to enter into an agreement under which the intergovernmental commission assumes the county's responsibility for activities related to dog licensing. If such an agreement is reached, require the commission to provide a copy of the agreement to DATCP. In a county in which an intergovernmental commission agreement is in effect, allow the intergovernmental commission to: (a) receive written claims for damage by dogs (in addition to allowing the county clerk to receive such claims); and (b) sue and recover from the owner of the dogs doing damage (counties currently have this authority).

Moreover, require that in a county in which an intergovernmental commission agreement is in effect, the commission must perform the following duties: (a) publish annual notices to the public relating to dog license and rabies vaccination requirements (instead of the county board publishing the notices); (b) pay compensation, if owed, to officials in charge of listing information about dogs in the area (instead of the county board paying the compensation); (c) act as a collecting official for a city, village or town if the governing body of the city, village or town by resolution or ordinance gives the commission such authority; (d) receive tags, and upon request, license blanks from DATCP (rather than the county clerk receiving these items); (e) pay the cost of the items to DATCP out of the dog license fund (instead of the county paying); (f) distribute tags and license blanks to the collecting officials (rather than the county clerk distributing the items); (g) receive all returned unused tags, license books and duplicate licenses from collecting officials (instead of the county clerk receiving the items); (h) receive all dog license taxes and reports on licenses issued from collecting officials (instead of other municipal tax collectors receiving the payments and paying a portion to the county treasurer); (i) maintain the dog license fund, consisting of dog license taxes and late fees (rather than the county treasurer maintaining the fund); (j) pay 5% of the minimum dog license tax to DATCP and expend the remainder of the dog license fund for administering the dog license law, providing a pound for dogs and paying claims allowed for damage by dogs (rather than the county treasurer making the payment within 30 days of receipt and expending funds for administering the dog license law, providing a pound for dogs, paying claims allowed for damage by dogs and for rabies quarantine and laboratory expenses); (k) annually on March 1, return any surplus greater than 5% of the dog license tax collected in that license year to the towns, villages, and cities of the county in the proportion in which the areas contributed to the fund in that license year (rather than the county treasurer paying any surplus in excess of $1,000 in a similar manner); and (L) act upon, determine and make any appeal on all claims filed and reported for dog damage (rather than county clerks and county boards determining such claims).

Conference Committee/Legislature: Delete provision.

16. MERCURY THERMOMETER BAN

Senate: Include the provisions of 2001 Senate Bill 435, as amended by SA 1, to allow the distribution of antique or collectible mercury thermometers. Beginning on the first day of the 7th month after publication, prohibit any manufacturer, wholesaler or retailer from selling or giving away a thermometer that contains mercury unless the thermometer is: (a) used for food research and development or food processing, including meat, dairy product and pet food processing; (b) used for the calibration of other thermometers, apparatus or equipment, unless a calibration standard that does not use mercury is approved for that calibration by the National Institute of Standards and Technology; (c) a component of an agriculture climate control system or industrial measurement system that is in use on the first day of the 7th month after publication; (d) a component of an agriculture climate control system or industrial measurement system if a nonmercury alternative is not available as a component of the system; (e) an electronic thermometer that includes a battery that contains mercury, if a person is not prohibited from selling that battery or offering that battery for sale under current state law; or (f) an antique or collectible mercury thermometer manufactured before 1998 on which advertising is displayed. Set a forfeiture of not more $200 for each violation of this provision, and specify that each unlawful sale or gift of a thermometer constitutes a separate violation.

Conference Committee/Legislature: Delete provision.

17. DUCK CREEK DRAINAGE DISTRICT STRUCTURES

Senate: Delete the current law provision that allows the drainage board for the Duck Creek Drainage District (Outagamie Drainage District No. 6) to place a structure or deposit into one of its district drains without a DNR permit if, either: (a) DATCP, after consulting with the Department of Natural Resources, specifically approves the structure or deposit; or (b) the structure or deposit is required by DATCP rule to conform the drain to DATCP-approved specifications.

Conference Committee/Legislature: Delete provision.

18. EMAIL SOLICITATION AND CHAIN LETTER REGULATIONS

Governor: Apply the following provisions to electronic mail (email) messages sent beginning on the first day of the 7th month after the effective date of the bill.

If an email service provider displays a solicitation or chain letter policy on its homepage and makes a hardcopy of the policy available at no charge upon request, prohibit (a) those who use the email service from sending an email solicitation (a message sent for personal gain or compensation, or in the expectation of personal gain or compensation, to encourage the

purchase of property, goods or services or to visit a Web site) or chain letter that uses the equipment of the provider in violation of the provider's solicitation or chain letter policy and (b) any person from sending an email solicitation or chain letter to a recipient that uses the equipment of the recipient's provider in violation of its solicitation or chain letter policy. Allow an email service provider who is injured by such a violation occurring more than 30 days after the policy is displayed on the provider's home page to bring an action against the violator for the greater of the mount of actual damages, $15,000 or an amount equal to $50 for each electronic mail solicitation or electronic chain latter that uses the provider's equipment in the violation. In addition, allow the email service provider to recover costs, disbursements and reasonable attorney fees.

Prohibit any person from sending an email solicitation, unless the sender includes a return email address or notice of a toll-free telephone number that may be used to notify the sender that the recipient does not want to receive email solicitations. Further, if such notice is given, prohibit the solicitor from sending another solicitation to that person. If another solicitation is sent to that person, require DATCP to investigate each complaint concerning such a violation. Allow DATCP or any district attorney on behalf of the state to bring an action for temporary or permanent injunctive or other relief for the violation, for penalties, or for both relief and penalties. Allow forfeitures of not more than $10 for each email solicitation that represents a violation, subject to a maximum daily forfeiture of $1,000.

Prohibit a person from knowingly sending an email message that represents the message is from another person without the consent of that person, or that represents the message is from an Internet domain name without the consent of the person who has registered the name. Specify that a first-time violator of this provision is guilty of a Class I felony (a fine of up to $10,0000 and / or up to 3½ years in prison under the bill) and that subsequent violations result in a Class H felony (up to six years in prison and / or a fine of up to $10,000).

Joint Finance/Legislature: Provision deleted as non-fiscal policy item.

19. WEB SITE REGULATIONS

Governor: Apply the following provisions beginning on the first day of the 7th month after the effective date of the bill to a person that maintains an Internet Web site for the purpose of doing business in Wisconsin (Web business).

Prohibit a Web business from disclosing to another person, for money or anything of value, any information about a Wisconsin resident that is obtained from the resident's use of the Internet, including from an email message sent by the resident, without the resident's consent. Further, prohibit a Web business from requesting a resident child under the age of 15 to provide information through the Internet to the Web business that includes personal information about the child without making a reasonable effort to obtain the consent of the child's parent or legal

guardian. Specify that a "reasonable effort" includes requiring the child's parent or guardian to mail or fax a consent form, provide a credit card number or provide an electronic signature to the Web business. Allow DATCP to seek forfeitures of up to $10,000 for each violation of the above provisions and specify that each disclosure of or request for information constitutes a separate violation. Allow the Department of Justice to commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any act or practice constituting a violation.

Require a Web business (other than a person whose involvement with a Web site is limited only to providing access to the Internet for the Web business) to display an easily comprehensible notice on the home page of their Web site that states whether the Web business collects any information about visitors to the site and that describes any information that is collected and the purpose for which it is collected, including a description of any information that is sold or provided to others. If the Web business (other than a person whose involvement with a Web site is limited only to providing access to the Internet for the Web business) sells or provides information about Web site visitors to others, require them to allow a visitor to notify the Web business at the time that the visitor visits the Web site as to whether or not the visitor consents to the sale or provision of the information. Prohibit such a Web business from selling or providing the information to others if a visitor notifies the Web business that the visitor does not consent to the sale or provision of such information. Allow forfeitures of up to $10,000 for each violation of the above provisions.

Joint Finance/Legislature: Provision deleted as non-fiscal policy item.

ARTS BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $217,900	- $3,500	- $1,800	- $223,200

Governor: Reduce the following GPR appropriations by a total of $89,800 in 2001-02 and $128,100 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	-$12,400	-$17,600
State Aid for the Arts	-43,400	-62,000
Challenge Grant Program	-28,700	-41,000
Wisconsin Regranting Program	-5,300	-7,500
Total	-$89,800	-$128,100

Joint Finance: Reduce the agency's GPR state operations appropriation by an additional $3,500. This amount represents an additional 1% reduction in the agency's state operations appropriation in 2002-03.

Assembly: Reduce the agency's general program operations appropriation by an additional $1,800. This amount represents an additional 0.5% reduction in the agency's state operations appropriation in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9205(1) thru (5f)]

2. MILWAUKEE ART MUSEUM GRANT

	Legislature	Veto (Chg. to Leg)	Net Change
GPR	$50,000	- $50,000	$0

Senate/Legislature: Provide $50,000 in 2002-03 for a grant to the Milwaukee Art Museum for the Leonardo da Vinci and the Splendor of Poland art exhibitions. Specify that no monies could be expended or encumbered from this appropriation after June 30, 2003.

Veto by Governor [A-1]: Delete provision.

[Act 109 Vetoed Sections: 26 (as it relates to s. 20.215(1)(cm)), 30d and 9105(1c)]

BOARD OF COMMISSIONERS OF PUBLIC LANDS

1. FEDERAL MATCH STAR PROGRAM LOANS [LFB Paper 1122]

Governor: Create a new type of loan, funded from available trust funds balances, to be offered by the Board of Commissioners of Public Lands (BCPL) under a loan program to be called the federal match star program. Provide that the loans could be made to any eligible municipality (town, village, city, county, school district or technical college district) for the purpose of providing funds to the municipality for its required share of any federal discretionary grant where a local matching amount is required. A federal discretionary grant would be defined as one that is awarded directly to a municipality following a competitive application process. Specify that loans could not be provided under this program for matching costs for federal formula grants (grants awarded under a federally-prescribed distribution formula) or state-administered pass-through federal grants (grants awarded to the state initially, but then distributed by the state to municipalities for actual expenditure). Stipulate that the interest rate charged for loans under this new program would be the same percentage rate as that received by the state for monies it places in the State Investment Fund (SIF). Require the Board, in consultation with DOA, to promulgate administrative rules to implement the program and to provide an annual report on the program to DOA and the Legislature. Limit the maximum amount of outstanding loans under the program to a total of $50,000,000. Provide that the maximum loan term may not exceed five years and that no extension of a loan under this program may be granted. Specify that a loan under this program may be granted only if the proposed loan, along with all other indebtedness, does not exceed 5% of the valuation of the taxable property within the municipality, except that the limit for school districts would be 10%.

Joint Finance/Legislature: Delete the statutory language proposed by the Governor. Instead, create session law language that would require the Board to establish a new loan program under its trust funds that would make available loan monies to any eligible municipality for the purpose of providing funds to the municipality to meet its required share of any federal or state discretionary grant where a local matching amount is required. Require that the Board, in establishing the program, define what constitutes a state or federal discretionary grant for which a matching fund loan may be requested and establish the new loan program within 90 days of the effective date of the bill. Provide that in creating the new program the Board shall ensure that loans under the program may not be for a period exceeding five years and that no such loan may be extended by the Board beyond the original period of the loan. Require that the Board report to the Governor, the Joint Committee on Finance and the Secretary of Administration on the proposed structure and operation of the loan program

no later than 30 days after establishing the program and before actual implementation of the program.

[Act 109 Section: 9141(2f)]

BOARD ON AGING AND LONG-TERM CARE

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $66,500	- $7,800	$74,300	$0

Governor: Reduce the Board's general operations appropriation by $27,400 in 2001-02 and $39,100 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Include the Governor's provision. In addition, reduce the Board's general operations appropriation by an additional $7,800 in 2002-03. This amount represents an additional 1% reduction in the Board's state operations appropriations in 2002-03.

Assembly: Modify the Joint Finance provision by reducing the Board's GPR state operations appropriation by an additional $3,900 in 2002-03. This amount represents an additional 0.5% reduction in the Board's state operations appropriations in 2002-03.

Senate/Legislature: Delete provision.

BUDGET MANAGEMENT

1. PROVISIONS RELATING TO FISCAL EMERGENCIES [LFB Paper 1122]

Governor: Repeal and recreate the general statutory provision dealing with procedures to be followed during a fiscal biennium when it is determined, following the enactment of a biennial budget, that actual revenues are likely to be less than the levels estimated in the biennial budget. Provide that during the fiscal biennium following the enactment of a biennial budget, a fiscal emergency would have to be declared by the Governor no later than 15 days after either the Legislative Fiscal Bureau, or the Departments of Administration and Revenue jointly, have made a determination that, for a fiscal year, previously authorized GPR expenditures are expected to exceed GPR revenues by an amount that is greater than 2.0% of those previously authorized expenditures for the fiscal year.

Specify that if the Legislature is in a scheduled floorperiod session on the date that the Governor declares the fiscal emergency, the Governor shall, within 15 days of the declaration of a fiscal emergency, submit a bill to the Legislature containing provisions for correcting the imbalance. Provide that if the Legislature has not passed a bill to correct the imbalance by end of the Legislature's last scheduled regular floorperiod, then the Secretary of DOA would be authorized to take any of the following actions to correct the imbalance: (a) reduce any sum certain appropriation (regardless of fund source); (b) reduce any previously approved expenditure estimate for a non-sum certain appropriation; (c) reduce an expenditure estimate for any of the following appropriations: (1) Public Instruction: general equalization aids; charter schools; and Milwaukee parental choice program; and (2) Shared Revenue and Tax Relief: small municipalities shared revenue; expenditure restraint program account; shared revenue account; state aid -- computers; and county mandate relief account; (d) lapse monies to the general fund from any program revenue appropriation; or (e) transfer monies to the general fund from any segregated fund appropriation. Further specify that if the Legislature is not in a scheduled floorperiod session on the date that the Governor declares the fiscal emergency, the Secretary of DOA may immediately take any of these actions. Create a new, sum sufficient appropriation under Miscellaneous Appropriations to allow the Secretary of DOA to accomplish the transfer of monies from segregated funds to the general fund under the new powers listed in (e).

Prohibit the Secretary of DOA from taking any actions under either of the above circumstances if the appropriation or expenditure estimate reduction would: (a) violate the U.S. or Wisconsin Constitutions; or (b) if the lapse or transfer to the general fund would involve any appropriation that is: (1) from federal funds; (2) for repayment of principal and interest on public debt or operating notes; (3) to the DOT for the purpose of undertaking construction

projects; (4) for the operation of any state institution established for the care or custody of individuals; (5) funded from gifts, grants or bequests; (6) one that contains monies whose lapse or transfer would violate a condition imposed by the federal government on the expenditure of such monies; and (7) one that contains monies whose lapse or transfer would violate the federal or state constitutions. Further specify that if the Secretary takes any actions under either of these circumstances where the reduction, or lapse or transfer to the general fund, involves an appropriation that is made to provide funds to more than one local governmental unit and the result of the action would be the provision of less money to the local governmental units, then the Secretary must ensure that each local governmental unit affected receives the same percentage reduction as a result of the appropriation reduction, or the lapse or transfer to the general fund.

In conjunction with these changes: (a) modify the current statute on approval of expenditures by the Secretary of DOA by increasing the percentage cap below which the Secretary may unilaterally take action to unilaterally withhold approval of expenditures due to insufficient revenues from 0.5% of estimated GPR appropriations for a given fiscal year to 2.0%; (b) stipulate that the Legislative Fiscal Bureau shall, no later than January 31st of each even-numbered year, make an estimate of GPR revenues and expenditures for the current fiscal biennium and provide copies of that estimate to the Governor, the Secretary of DOA, the Co-chairs of the Joint Committee on Finance and the presiding officer of each house of the Legislature; and (c) authorize the Departments of Administration and Revenue to jointly prepare, at any time that they wish during the fiscal biennium, an estimate of GPR revenues and expenditures for the current fiscal biennium and to provide copies such estimates to the Governor, the Co-chairs of the Joint Committee on Finance and the presiding officer of each house of the Legislature.

Under current law, the Secretary of Administration is required to approve allotment estimates of appropriated amounts for agencies following the enactment of each biennial budget and is authorized to modify the allotment estimates of agencies. However, the Secretary is prohibited from modifying any allotment estimates following the enactment of the biennial budget in any biennium, if following that enactment, the Secretary subsequently determines that previously authorized expenditures will exceed estimated revenues by 0.5% of estimated GPR appropriations for that fiscal year. Instead, the Secretary must immediately notify the Governor, the presiding officer of each house of the Legislature and the Joint Committee on Finance of the revenue shortfall. Following this notification, the Governor is required to submit a bill containing his or her recommendations for correcting the imbalance between projected revenues and authorized expenditures. Further, if the Legislature is not in a scheduled floorperiod at the time of the Secretary's notification, the Governor is required to call a special session of the Legislature to take up the matter of the projected revenue shortfall and to submit his or her bill for consideration at that session.

Under current law and the 2001-03 enacted budget (Act 16), the maximum revenue shortfall that could occur before a revenue shortfall [DOA notification under s. 16.50(7)] has to

be announced is $332.5 million for fiscal year 2001-02 or $98.8 million for fiscal year 2002-03. Had the Governor's proposal been in effect, the maximum revenue shortfall that could occur before a fiscal emergency would have to be declared by the Governor would be $503.7 million for fiscal year 2001-02 and $274.7 million for fiscal year 2002-03.

Joint Finance/Legislature: Delete provision.

2. LAPSES AND TRANSFERS TO THE GENERAL FUND [LFB Paper 1121]

Governor: Require that the Secretary of the Department of Administration lapse to the general fund from various individual agencies' program revenue appropriation accounts or transfer to the general fund from various individual agencies' segregated appropriation or fund accounts a total of $13,001,800 ($332,700 FED; 12,219,400 PR and $449,700 SEG) in 2001-02 and a total of $11,288,100 ($475,300 FED; $10,170,400 PR; and $642,400 SEG) in 2002-03. Stipulate that the Secretary of DOA may not lapse or transfer any of the specified monies as identified in the bill if the lapse or transfer would violate a condition imposed by the federal government on the expenditure of the moneys or would violate the U. S. Constitution or the Wisconsin Constitution. [Note: the fiscal effect of the individual lapse or transfer amounts that are specified for each agency in this section of the bill are shown in separate entries under the affected respective agencies in this document. See Administration; Agriculture, Trade and Consumer Protection; Child Abuse and Neglect Prevention Board; Commerce; Electronic Government; Financial Institutions; Health and Family Services; Historical Society; Insurance; Natural Resources; Public Instruction; Public Service Commission; Regulation and Licensing; State Fair Park; and Veterans Affairs]

Joint Finance/Legislature: Include session law language specifying that no state agency subject to any program revenue or segregated revenue lapse or transfer to the general fund under the bill may increase any fees, chargebacks or assessments for any appropriation associated with those lapses or transfers without first receiving the approval of the Joint Committee on Finance under a 14-day passive review process.

Veto by Governor [E-12]: Delete session law language added by the Joint Finance Committee.

[Act 109 Vetoed Section: 9159(5c)]

3. SUM SUFFICIENT APPROPRIATION EXPENDITURE ESTIMATE REDUCTIONS

Governor: Require the Department of Administration, in amending the biennial appropriation schedule under Chapter 20 of the statutes for the publication in the statutes, to make reductions, totaling $3,913,500 GPR in 2001-02 and $758,724,000 GPR in 2002-03, in certain

sum sufficient GPR appropriations to reflect reductions required as a result of this bill. [The individual sum sufficient appropriation expenditure estimate reduction amounts are shown in the budget reduction entries under the affected respective agencies in this document. See Administration; Governor; Justice; Miscellaneous Appropriations; Program Supplements; and Shared Revenue and Tax Relief].

Joint Finance/Legislature: Include provision but with revised amounts for some agencies which are shown under the individual entries for those agencies.

4. REDUCTION OF ACT 16 SEG TRANSFERS [LFB Paper 1121]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	- $3,199,000	$3,199,000	$0
SEG-Transfer	- 3,199,000	3,199,000	0

Governor: Reduce the total amount of transfers to the general fund from certain SEG accounts to the general fund that were originally required of certain agencies under 2001 Wisconsin Act 16 (biennial budget) by a total of $1,089,100 in 2001-02 and $2,109,900 in 2002-03. The original transfers, specified by DOA, in implementing the Act 16 provisions, that would be reduced or eliminated are shown in the following table:

Act 16 Transfers and Proposed Reduced Transfers

	Act 16 Transfers		Proposed Transfers		Difference	
	2001-02	2002-03	2001-02	2002-03	2001-01	2002-03
Natural Resources						
Conservation - snowmobile account	$7,300	$7,300	$0	$0	-$7,300	-$7,300
Revenue						
Lottery general program operations	1,081,800	1,081,800	0	0	-1,081,800	-1,081,800
Transportation						
Administration and planning	519,500	519,500				
Departmental mgmt. & operations	3,877,600	3,877,600				
Division of motor vehicles	2,814,600	2,814,600				
	$7,211,700	$7,211,700	$7,211,700	$6,190,900	$0	-$1,020,800
TOTAL CHANGE	$8,300,800	$8,300,800	$7,211,700	$6,190,900	-$1,089,100	-$2,109,900

Joint Finance/Legislature: Retain current law by deleting provision.

5. CONVERT ESTIMATED LAPSES TO APPROPRIATION REDUCTIONS

Governor/Legislature: In December, 2002, the Governor announced a 3.5% reduction to a number of general fund, state operations appropriations for 2001-02. In the Legislative Fiscal Bureau's January 16, 2002, 2001-03 general fund revenue and expenditure projections, $28.3 million was included in the condition statement as a general fund lapse to account for the 3.5% directive. In the bill, that estimated lapse is converted to reductions in appropriations. Those reductions are shown under the various agencies throughout this summary.

6. ELIMINATION OF UNFUNDED STATE AGENCY POSITIONS

Governor/Legislature: Require the Secretary of the Department of Administration to determine for each state agency, including the Legislature and the Courts, no later than September 30, 2002, the number of positions in each agency that are unfunded as a result of the reductions in state agency operations appropriations made by Act 16 and the additional reductions required in the budget adjustment bill. Provide that after making this determination, the Secretary shall submit the results of this determination to the Joint Committee on Finance for approval under a 14-day passive review process. Upon approval by the Committee, the Secretary would be authorized to make the specified position reductions.

[Act 109 Section: 9101(7)]

7. MEMBERSHIPS AND DUES REDUCTIONS

GPR-Lapse	$560,000

Assembly: Require the Secretary of the Department of Administration to lapse in 2002-03 to the general fund an amount equal to 20% of the GPR amounts expended in 2000-01 by each state agency for the costs of membership dues paid to national, state and local non-governmental organizations and to reduce or re-estimate the corresponding appropriations to reflect the lapses. Provide that these amounts shall be lapsed from the respective agency appropriations from which the membership dues were paid in 2000-01.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [E-11]: Eliminate the specification that the required lapse amount come from the GPR appropriation from which the membership dues were paid and delete the requirement that the appropriation from which the lapse is taken be reduced by the amount of the lapse. The result of the veto is that the Secretary would be required to calculate the amount of dues paid from GPR appropriations for each agency and to have the agency lapse 20% of that amount from any of the agency's appropriations to the general fund.

[Act 109 Section: 9101(6e)]

[Act 109 Vetoed Section: 9101(6e)]

8. STATE EMPLOYEE CAP

Assembly: Create a statutory provision to require that each state agency in the executive branch of government, including the University, identify and report to the Secretary of the Department of Administration, by July 30th of each year, each classified and unclassified position in the agency which became vacant during the preceding fiscal year. Specify that the Secretary shall then ensure that during the ensuing fiscal year no executive branch agency fills more than 75% of the total number of FTE positions that became vacant during the preceding fiscal year. Direct that the Secretary withhold approval of any agency allotment requests to fund any position subject to this hiring freeze (25% of the vacated positions). Stipulate that such funds shall be lapsed back to the funding source from which the frozen position was funded and that the unfunded positions shall be deleted from the agency's base budget.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision modified to limit the number of positions that could be refilled to 80% of the total number of positions vacated in the previous fiscal year.

Veto by Governor [E-8]: Eliminate the applicability of the provisions just to executive branch agencies so that all state agencies would be affected; delete the provisions that would have limited state agencies from refilling more than 80% of the agency positions that were vacated in the previous fiscal year; and delete the requirement for 20% of the vacated positions to be abolished by the Secretary of Administration. Eliminate the directive for the Secretary of Administration to remove from agency appropriations the funds that would have been associated with those abolished positions. Modify the remaining language to leave a requirement that each state agency must annually file a report with the Department of Administration regarding the number of positions in the agency that became vacant in the preceding fiscal year and providing expenditure estimates for those positions but with no required report submittal date.

[Act 109 Section: 18r]

[Act 109 Vetoed Sections: 18e and 18r]

9. BASE BUDGET REVIEW

Assembly: Require every state agency, including the Legislature and the Courts, to periodically (once every third biennium) submit a base budget review report. Specify that such report must include a description of each programmatic activity of the agency and provide for each such programmatic activity an accounting, by fund source, of expenditures for the prior three fiscal years and for the last two quarters of each of the prior three fiscal years. Direct the Secretary of the Department of Administration to develop categories for state agencies to use in organizing the required expenditure information. Provide that such reports shall be included with agencies' budget requests and submitted to the Department of Administration and the Legislative Fiscal Bureau by September 15, of the even-numbered year in which an agency is required to prepare a base budget review report. Specify that the Secretary of DOA, beginning with agency budget requests submitted for the 2003-05 biennium, select one-third of all state agencies to submit the required base budget review information for that biennial budget. Require that for the 2005-07 biennium, the Secretary select half of the remaining agencies to submit their base budget review information for that biennium and stipulate that the remaining agencies would then be required to submit base budget review information for the 2007-09 biennial budget. The cycle would then be repeated in succeeding biennia.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 17q, 17r and 17st]

10. REVIEW OF STATE AGENCY PERFORMANCE AND OPERATIONS

Assembly: Include the provisions of AB 493, which would create a program (to be called "Renew Wisconsin") under which the Governor would establish for each state agency in the executive branch of state government a committee to conduct periodic performance evaluations of the operations of the agency, to review the statutes and rules that affect the operation of the agency and to provide a written report to the Governor and the Legislature regarding the committee's findings and recommendations. The Department of Administration would be required to provide all necessary staff support for the operation of each of the committees created.

Senate/Legislature: Delete provision.

11. STATE SPENDING LIMIT MODIFICATION

Assembly: Modify the state spending limit provision created under Act 16 to provide that the limit calculation for future year increases be the projected percentage increase in state

personal income less 1% point, except that resultant percentage change limit would never be less than zero. Under Act 16, effective beginning with the 2003-05 biennial budget, year to year increases in the state GPR budget (excluding debt service, tax relief programs, DPI, UW and HEAB) are limited to the annual percentage increase that is projected for state personal income growth for the calendar years corresponding to the fiscal biennium [for the 2003-05 biennial budget, the two calendar years that would be the reference point for projected state personal income growth percentage would be calendar years 2003 and 2004].

Senate/Legislature: Delete provision.

12. EXECUTIVE ASSISTANT PHASE-OUT

Assembly: Repeal the general statutory provision allowing the appointment of executive assistants by state agency heads. Prohibit the appointment of any person to an executive assistant position following the effective date of the bill. Provide that any incumbent in an existing executive assistant position on the effective date of the bill may continue in that position, but specify than when that person leaves the position, no new person may be appointed to the position after the effective date of the bill. Require that Secretary of the Department of Administration eliminate from an agency's authorized number of positions: (a) any executive assistant position for an agency that is vacant on the effective date of the bill; and (b) any executive assistant position for an agency that becomes vacant following the effective date of the bill when the incumbent holding the position on the effective date of the bill leaves that position.

Senate/Legislature: Delete provision.

13. DELETION OF DEPUTY SECRETARY, EXECUTIVE ASSISTANT AND DIVISION ADMINISTRATOR POSITIONS

Senate: Effective July 1, 2002, delete all unclassified deputy secretary, executive assistant and division administrator positions in executive branch agencies, excluding the position of Administrator of the Division of Merit Recruitment and Selection in the Department of Employment Relations. Repeal the general statutory provisions for appointment of such unclassified positions in the executive branch of government and other specific statutory references to such individual positions. Provide that the Secretary of the Department of Administration shall delete from each affected agency's authorized number of positions the number of positions that have been authorized for the agency as an unclassified deputy secretary, executive assistant or division administrator. Require the DOA Secretary to reduce each agency's appropriation that funds one or more of such positions by the amount of funds (salary plus fringe benefit costs) that would have been expended on each such position in 2002-03. The Secretary would be further required to lapse or transfer to the general fund in 2002-03

the amount of each such reduction, except for any such reductions that involve federal funds or monies which fund the cost of operations of Department of Employee Trust Funds. The lapse from GPR appropriations in 2002-03 is estimated at $8,600,000 and the lapses to the general fund in 2002-03 from PR and SEG appropriations is estimated at $6,900,000.

Conference Committee/Legislature: Delete provision.

14. PRIORITY ORDER FOR AGENCY LAYOFFS

Senate/Legislature: Require that when an agency in the executive branch of government, as a consequence of across-the-board or other reductions required under this bill to previously authorized 2001-03 appropriation amounts, determines that it must impose a reduction in existing employees (layoffs), the agency must first layoff all unclassified employees in the agency (excluding the department head) before eliminating any classified service employees. The provision would not apply to the University of Wisconsin System.

Veto by Governor [E-10]: Delete provision.

[Act 109 Vetoed Section: 9156(1q)]

15. EQUITABLE STATEWIDE REDUCTION IN AGENCY SERVICES

Senate/Legislature: Require that each state agency in the executive branch of government, in implementing appropriation decreases for fiscal year 2002-03 as required under this bill, shall ensure that any reduction in services made by the agency is equitably apportioned between residents of rural areas and residents of urban areas in this state. Direct that the Secretary of DOA require each affected state agency to submit an expenditure estimate for 2002-03 for each of its appropriations that would be reduced under the bill. Specify that the Secretary shall not approve any such estimate that would provide for a reallocation of services provided by the agency that would disproportionately impact residents of rural areas of the state.

Veto by Governor [E-9]: Delete provision.

[Act 109 Vetoed Section: 9159(5z)]

16. TRANSFERS TO BUDGET STABILIZATION FUND

Senate: Modify current law to provide that 100%, rather than the current 50%, of all tax revenues received in any fiscal year that are in excess of the amount of taxes that were projected

in the biennial budget act covering that fiscal year be transferred to the budget stabilization fund. Under Act 16, a new statutory process was created which requires the Secretary of DOA, at the end of each fiscal year, to compare the amount of taxes actually collected in that fiscal year with the projected amount of taxes in the general fund condition statement of the biennial budget act covering that fiscal year. If the Secretary determines that actual collections are greater than the projected amount, the Secretary is required to transfer 50% of that difference to the budget stabilization fund (unless the balance in that fund exceeds 5% of estimated GPR expenditures for that fiscal year, a balance of around $580 million under Act 16). This provision would require that 100% of such excess tax collections be transferred to the budget stabilization fund, subject to the same maximum fund balance limit.

Also, direct that the Secretary of the Department of Administration transfer, by June 30, 2003, a total of $15,229,500 from the general fund to the budget stabilization fund.

Conference Committee/Legislature: Delete provision.

17. VOLUNTARY STATE EMPLOYEE FURLOUGH

Senate/Legislature: Authorize the chief administrative officer of any state agency to grant any state employee, other than an elected official or an employee nominated or appointed by the Governor to a fixed term, a voluntary furlough during the remainder of the 2001-03 fiscal biennium, not to exceed eight weeks duration. Stipulate that during the period of the voluntary furlough, the appointing authority would continue to pay the employee's fringe benefits costs, other than for Wisconsin Retirement System contributions and Social Security, and the employee would continue to accrue benefits, other than retirement creditable service and Social Security credits, as though employment was continuous. Specify that the timing of any voluntary furlough would be at the discretion of the appointing authority. Stipulate that for employees included in a collective bargaining unit for which representation is recognized or certified under the State Employment Relations Act, these voluntary furlough provisions would apply unless otherwise provided in a collective bargaining agreement. Specify that all non-FED salary and Social Security and retirement contribution fringe benefits savings amounts not expended by state agencies (other than the Department of Employee Trust Funds and the State of Wisconsin Investment Board) for employees taking a voluntary furlough would lapse or be transferred to the general fund.

Because a furlough would be voluntary and a similar program has not previously been implemented, it is not known the number of state employees who might participate under the program or what the cost savings to the state would be. For any employee taking the voluntary furlough, the savings to the state would derive from lapsed non-FED salary amounts for up to eight weeks and associated fringe benefits amounts equal to 17.95% of salary to reflect the fact that the employer would not make Social Security contributions (7.65%) or retirement contributions (10.3%) during the period of the furlough. Unspent FED salary and fringe

benefits amounts must generally revert to the federal government and cannot be lapsed to the general fund.

Excluding the Department of Employee Trust Funds and the State of Wisconsin Investment Board, for every 1% of payroll opting for a voluntary eight-week furlough, the potential salary and Social Security fringe benefits savings are estimated as follows:

Estimated Savings Per 1% Payroll Furlough Election

Funding Source	Total Salary Amount with 17.95% Fringe
GPR	$2,310,700
PR	1,891,400
SEG	399,700
FED	650,000
Total	$5,251,800
Total Non-FED Amounts	$4,601,800

[Act 109 Sections: 9159(4z) and 9259(6z)]

18. INCREASE ESTIMATED 2001-02 GENERAL FUND LAPSES

GPR-Lapse	$12,900,000

Conference Committee/Legislature: Based on agency pay plan and fringe benefit supplement requests for fiscal year 2001-02 that were submitted by the Department of Administration on June 25, 2002, for approval by the Joint Committee on Finance, estimate a $12,900,000 GPR-Lapse from the 2001-02 compensation reserves to the general fund.

19. REQUIRED GENERAL FUND STRUCTURAL BALANCE

Conference Committee/Legislature: Require that, beginning with the 2005-06 fiscal year, no bill may be adopted by the Legislature if the bill would cause in any fiscal year the amount of monies designated as total expenditures in the statutory general fund condition statement, after deducting any transfer to the budget stabilization fund in that fiscal year, to exceed the sum of the amount of monies designated as taxes and as departmental revenues in that condition statement for that same fiscal year.

Veto by Governor [E-7]: Delete the portion of the provision that would have made the prohibition effective beginning with the 2005-06 fiscal year so that the provision is effective immediately.

[Act 109 Section: 25y]

[Act 109 Vetoed Section: 25y]

BUILDING COMMISSION

1. GENERAL OBLIGATION REFUNDING BONDING

BR	$414,949,463

Governor/Legislature: Authorize $440,000,000 of general obligation bonding for the purpose of refunding tax-supported and self amortizing general obligation bonding. Specify that such indebtedness would be construed to include any premium and interest payable. Provide that the debt incurred would be repaid under the appropriations providing for the retirement of public debt incurred for tax supported and self amortizing facilities in proportional amounts to the purposes for which the debt was refinanced. Further, specify that no moneys could be expended under this authorization unless the true interest costs to the state be reduced by the expenditure, and that this bonding would be in addition to $75,000,000 authorized in a separate appropriation for this purpose under current law.

Delete $22,913,570 in remaining bonding authority from a separate authorization for refunding tax supported general obligation debt and delete $2,136,967 in remaining bonding authority from a separate authorization for refunding self amortizing bonds.

Modify the title of an existing bonding authorization for refunding tax supported and self amortizing general obligation bonding to reference debt incurred before June 30, 2003.

[Act 109 Sections: 65 thru 68]

2. DEPOSIT OF PROCEEDS FROM SALE OF CERTAIN STATE OFFICE BUILDINGS

GPR-REV	$4,750,000

Governor: Specify that if the Building Commission sells any or all state office buildings located at 123 West Washington Avenue (the Lorraine Building), 121 East Wilson Street (the

Lake Terrace Building) and 149 East Wilson Street (formerly housed Corrections central office staff) in the City of Madison, the Commission would be required to deposit the net proceeds from sale to the general fund. Net proceeds would be monies from the sales that remain after any required deposit to the bond security redemption fund to cover outstanding public debt related to the building. Further, specify that if the Commission sells any of these state office facilities after June 30, 2001 but before the effective date of the bill and any portion of the proceeds has been transferred to the Joint Committee on Finance's supplemental appropriation, as required under current law, the lesser of the transferred amount or any unencumbered balance in that appropriation account would be transferred to the general fund. Specify that these provisions would no longer apply after June 30, 2003.

DOA estimates that the net proceeds from the sale of all three buildings affected by these provisions will result in general fund revenues of $4,000,000 in 2001-02 and $750,000 in 2002-03.

Under current law, after satisfying outstanding bonds used to finance the property, any proceeds from the sale of that property are deposited to the Joint Finance Committee's appropriation for release to the agency selling the property or the Building Commission. If the property was used by a single agency, 50% of the net proceeds from the sale of the property can be released by the Committee upon the request of the agency to supplement any agency appropriation, except a sum sufficient appropriation, without the finding by the Committee that an emergency need exists. Similarly, upon the request of the Building Commission, the Committee can transfer the remaining net proceeds from the sale, depending on the amount released to the agency, to the building trust fund, without the finding that an emergency need exists.

Assembly: Modify provision to, instead, deposit proceeds of the sale to the budget stabilization fund rather than to the general fund. This would reduce revenues to the general fund by $4,000,000 in 2001-02 and $750,000 in 2002-03 and correspondingly increase segregated revenues to the budget stabilization fund.

Senate/Legislature: Include the Governor's recommendation.

[Act 109 Section: 9107(1)]

3. DEBT RESTRUCTURING CHANGES [LFB Paper 1125]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-Lapse	$0	$25,000,000	$25,000,000

Governor: Increase estimated lapses to the general fund by $25.0 million in 2001-02 and make a corresponding decrease in estimated lapses to the general fund of $25.0 million in 2002-

03. The Department of Administration indicates that these changes reflect the decision to carry out a restructuring of $25.0 million in state general obligation debt in 2001-02 rather than 2002-03 as was anticipated under Act 16. These estimated lapses to the general fund reflect the projected savings from refunding general obligation bonds that would have otherwise been paid off in that year.

Joint Finance/Legislature: Increase the estimated GPR-Lapse by an additional $25 million in 2001-02 attributable to the $75 million in refunding authority included in 2001 Act 16. Under 2001 Act 16, it was estimated that only $50 million of this $75 million in refunding authority would be used to refund general fund supported general obligation bonds with the remaining $25 million used to refund self-amortizing general obligation bonds. Instead, the administration indicates that the entire $75 million in refunding authority will be used to refund only general fund supported general obligation bonds, $50 million of which would have otherwise been paid off in 2001-02 and $25 million of which would otherwise been paid off in 2002-03. As a result, the GPR debt service payments would be $25 million less in 2001-02 than previously estimated, which would result in a $25 million increase in GPR lapse amounts for 2001-02.

4. SALE OF STATE OFFICE FACILITY IN EAU CLAIRE

Assembly: Direct the Department of Administration (DOA) to sell the state office facility in the City of Eau Claire in which the Department of Transportation's District Six office is the primary tenant. Further, require DOA to relocate the state offices and personnel housed in this facility to a privately-leased facility that would be less costly to the state than the current rental cost of housing the offices in the state-owned facility. Specify that the net proceeds from the sale of the facility, after any outstanding debt on the facility is paid, would be deposited to the budget stabilization fund.

Senate/Legislature: Delete provision.

5. SALE OF STATE PROPERTY

Assembly: Require the Department of Administration to do the following:

a. Compile a list of surplus state properties that have the potential to be sold or leased by the state by March 15, 2003;

b. Determine which other state properties that it would be in the long-term financial interest of the state to sell or lease, including office buildings, power plants and wastewater treatment facilities, regardless of whether the state currently occupies or uses the property, building or facility. This would not apply to any public lands held under the authority of the

Board of Commissioners of Public Lands whose authority and holdings are established under the State Constitution. Also, current law exemptions related to the sale, purchase or other conveyance of state surplus property by DOT would not apply to these properties; and

c. By October 1, 2003, submit to the Joint Committee on Finance for approval, under a 14-day passive review process, a list of the properties that should be offered for sale or lease by the state.

Specify that the state would offer for sale or lease those properties that are approved by the Joint Committee on Finance. Further, specify that the net proceeds from the sale or lease of all properties under these provisions, after outstanding debt is paid, would be deposited to the state's budget stabilization fund, rather than under the current law process allocating the proceeds from such sales.

Under current law, net proceeds from the sale of surplus properties after paying off outstanding bonds used to finance that property, are deposited in the Joint Finance Committee's appropriation for release to the agency or the Building Commission. If the property was used by a single agency, not more than 50% of these funds can be released by the Committee upon the request of the agency to supplement any agency appropriation, except a sum sufficient appropriation. Similarly, upon the request of the Building Commission, the Committee can transfer the remaining funds, depending on the amount of funds released to the agency, to the building trust fund.

Senate: Delete provision.

Conference Committee/Legislature: Modify the Assembly provision to delete the requirement that DOA determine which other state properties that it would be in the long-term financial interest of the state to sell or lease, including office buildings, power plants and wastewater treatment facilities, regardless of whether the state currently occupies or uses the property, building or facility. Also specify that the list of properties that should be offered for sale or lease by the state, that is to be submitted to the Joint Committee on Finance by October 1, 2003, would only be required to include surplus properties.

Veto by Governor [E-6]: Delete provision.

[Act 109 Vetoed Sections: 80m, 258puw, 9101(9b) and 9107(1b)]

6. BIENNIAL STATE BONDING LIMIT

Assembly: Effective with the 2003-05 biennium, establish a statutory limit on the level of non-refunding, GPR-supported borrowing that could be authorized by the Legislature in each

biennium to 5% of the GPR tax revenues estimated to be received by the state in the even-numbered fiscal year of that biennium.

Senate/Legislature: Delete provision.

7. ACCELERATE BIOSTAR INITIATIVE BONDING

Senate/Legislature: Accelerate the schedule for issuing general obligation bonding to fund the Biostar Initiative at the University of Wisconsin-Madison campus, as shown in the following table.

	Allowable Issuance Amount	
	Current Law	Senate
Prior to July 1, 2003	$18,000,000	$18,000,000
July 1, 2003 to June 30, 2005	45,500,000	77,500,000
July 1, 2005 to June 30, 2007	32,000,000	32,000,000
July 1, 2007 to June 30, 2009	32,000,000	31,000,000
After July 1, 2009	31,000,000	0
Total	$158,500,000	$158,500,000

The 2001-03 budget act (2001 Act 16) established the Biostar Initiative for the purpose of providing financial support to construct biological sciences facilities at the University of Wisconsin-Madison. Act 16 provides that an amount equal to $158,500,000 in general obligation bonding is allocated for the Biostar Initiative. Under this provision, the overall program funding at a 50/50 match ($158.5 million general fund supported bonding and $158.5 million gift and grant monies) would remain and the total project cost would remain at $317 million. However, the bonds would be authorized over an eight-year period, rather than over a ten-year period as under Act 16. Because the amount of bonding available for issuance would remain unchanged in the 2001-03 biennium, this provision would not have a fiscal effect during the 2001-03 biennium.

[Act 109 Sections: 68d, 68e, 68f and 68g]

8. DISTRIBUTED GENERATION UNITS IN STATE BUILDINGS

Senate/Legislature: Require the Department Administration to investigate the potential to incorporate and use distributed generation units in any state building project that would involve an expenditure of $5 million or more. Specify that the Department's investigation must consider cost effectiveness, the potential to increase statewide energy generation capacity and the potential for cost savings to the state. Require the Department to report the results of its investigation, its recommendations and the reasoning for its recommendations to the Building

Commission prior to the Commission's consideration of the project. Define a distributed generation unit as any form of energy generation that can be used by electric consumers to generate electric power.

Veto by Governor [E-13]: Delete provision.

[Act 109 Vetoed Section: 20v]

9. RETAINAGE ON STATE PUBLIC WORKS CONTRACTS

Governor: Modify the amount that the Department of Administration could retain from a contractor on a state construction contract. Specify that the retainage would be not more than 5% of the estimated value of the work completed on the contract, until 100% of the project is completed. Under current law, retainage equals 10% of the estimated value of the work completed on the contract until 50% of the project is completed, unless the job is not proceeding satisfactorily, in which case additional amounts may be retained, but in no case may retainage exceed 10% of the value of the work completed. Exclude the state from a similar current law retainage requirement for municipal public works and supplies or materials contracts exceeding $1,000, that currently applies to the state, except the Department of Transportation. This current law municipal retainage requirement would continue to apply to local units of government. Specify that these provisions would first apply to contracts entered into on the first day of the third month beginning after the effective date of the bill.

Joint Finance/Legislature: Provision deleted as non-fiscal policy item.

CHILD ABUSE AND NEGLECT PREVENTION BOARD

1. PROGRAM REVENUE LAPSE [LFB Paper 1121]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR-REV	$27,200	- $27,200	$0
PR-Lapse	27,200	- 27,200	0

Governor: Lapse $11,200 in 2001-02 and $16,000 in 2002-03 to the general fund from the Board's general operations PR appropriation.

Senate/Legislature: Delete provision.

CIRCUIT COURTS

1. INCREASE THE FEE FOR COURT SUPPORT SERVICES [LFB Paper 1130]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	$8,000,000	$100,000	$8,100,000

Governor: Increase the fee for court support services by 30%, as follows: (a) increase the $40 court support services fee under current law to $52 for certain civil actions and special proceedings, third-party complaints, appeals from municipal court, reviews of administrative decisions or forfeiture actions in circuit court; (b) increase the $100 court support services fee under current law to $130 for certain civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions, if the party paying the fee seeks the recovery of money and the amount claimed exceeds $5,000; and (c) increase the $30 court support services fee under current law to $39 for certain small claims actions (including counterclaims or cross complaints), civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions, if the party paying the fee seeks the recovery of

money and the amount claimed is $5,000 or less. The fee increases would first apply to actions commenced on July 1, 2002. The court support services fee is in addition to other court fees that may apply to these actions. The Governor estimates that the fee increases will generate $8 million in revenue, to be deposited to the general fund.

The state provides funding for various programs to offset county court costs, including circuit court support grants, guardian ad litem services grants and funding for the costs of transcripts for eligible indigent defendants. The court support services fee was created in 1993 to offset the cost of these programs to the state. In 2000-01, the court support services fee generated $26,993,600 in revenue. The administration's summary of the bill indicates that the Governor recommends increasing this fee instead of making additional reductions for the Courts and State Public Defender services.

Joint Finance: Reestimate the amount of revenue to be deposited to the general fund from the fee increase by an additional $100,000 in 2002-03.

Conference Committee/Legislature: Include Joint Finance provision and specify that the increased court support services fee would first apply to actions commenced on the effective date of the bill rather than July 1, 2002.

[Act 109 Sections: 520 thru 522 and 9309(1)]

2. ACROSS-THE-BOARD BUDGET REDUCTIONS

Joint Finance: Require the Chief Justice of the Supreme Court to take actions during 2001-03 to ensure that, from GPR state operations appropriations under the Circuit Courts, the Court of Appeals and the Supreme Court, a total of $3,742,500 is lapsed to the general fund. This lapse amount is equivalent to the sum of: (a) a 3.5% reduction in 2001-02 and a 6.0% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations; and (b) a 5.0% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court sum sufficient court operations appropriations.

Assembly: Include the Joint Finance provision except increase the GPR lapse by $342,700 to provide an additional lapse equivalent to the sum of a 0.5% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court GPR state operations appropriations.

Senate: Modify Joint Finance to reduce the required lapse to the general fund during 2001-03, from GPR state operations appropriations under the Circuit Courts, Court of Appeals and Supreme Court, from a total of $3,742,500 to $666,300. This lapse amount is equivalent to a 3.5% reduction in 2001-02 and a 6.0% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations.

Conference Committee/Legislature: Modify Joint Finance to require the Chief Justice of the Supreme Court to take actions during 2001-03 to ensure that, from GPR state operations appropriations under the Circuit Courts, the Court of Appeals and the Supreme Court, a total of $2,375,900 is lapsed to the general fund. This lapse amount is equivalent to the sum of: (a) a 3.5% reduction in 2001-02 and a 6.25% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations; and (b) a 2.75% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court sum sufficient court operations appropriations. (See "Supreme Court.")

[Act 109 Section: 9247(2z)]

COMMERCE

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $1,686,900	- $77,900	- $39,000	- $1,803,800

Governor: Reduce the following GPR appropriations by a total of $694,600 in 2001-02 and $992,300 in 2002-03. These amounts represent 3.5% of total GPR appropriations in 2001-02 and 5.0% of total GPR appropriations in 2002-03. However, the percentage reduction in individual GPR appropriations varies from those amounts.

	Reduction Amount	
	2001-02	2002-03
Economic Development operations	- $111,100	- $187,500
Economic Development promotion	0	-13,100
Aid to Forward Wisconsin, Inc.	0	-25,000
Main Street program	-15,000	-21,900
Technology-Based Economic Development	0	-6,300
Business Development Initiative	-133,800	-150,000
Private sewage system replacement	-330,900	-501,000
Executive and administrative services	-103,800	-87,500
Total	-$694,600	-$992,300

As the table shows, the bill would delete $330,900 in 2001-02 and $501,000 in 2002-03 for private sewage system replacement and rehabilitation grants. Under Act 16, the private sewage system replacement and rehabilitation grant program is appropriated $3,500,000 annually and had a July 1, 2001, carry-in balance of $338,300. The bill would result in appropriating $3,169,100 in 2001-02 (up to $3,507,400 would be available with the carry-in balance) and $2,999,000 in 2002-03. Commerce awarded $3,478,200 for 2001-02 grants in August, 2001. The program provides grants to home and small business owners who meet certain income and eligibility criteria, to cover a portion of the cost of repairing or replacing failing private sewage systems. If appropriated amounts are insufficient to pay all eligible awards, grants are prioritized and / or prorated as necessary.

Joint Finance: Reduce the Department's largest GPR state operations appropriation by an additional $77,900. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Modify Joint Finance and reduce the Department's largest GPR state operations appropriation by an additional $39,000. This amount represents an additional 0.5% reduction in the agency's state GPR operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the agency's other sum certain, state operations appropriations funded from GPR.

Senate: Modify Joint Finance and reduce the Department's largest GPR state operations appropriation by an additional $39,000. This amount represents an additional 0.5% reduction in the agency's state GPR operations appropriations in 2002-03.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 29, 9210(5) thru (10)&(11)]

2. ELIMINATE BUSINESS DEVELOPMENT INITIATIVE [LFB Paper 1135]

GPR-REV	$202,600
PR-Lapse	202,600
PR	- $120,000

Governor/Legislature: As shown under Item #1 the bill would delete $133,800 GPR in 2001-02 and $150,000 GPR in 2002-03 from the business development initiative (BDI) program ($16,200 in GPR has been awarded in 2001-02). In addition, the bill would delete expenditure authority of $60,000 PR in each year and eliminate the program. The balance in the repayments appropriation and all interest and principal received in repayment of loans under the program would be deposited in the general fund. As a result, GPR-earned would increase by $184,300 in 2001-02 and $18,300 in 2002-03.

The BDI is designed to create employment opportunities for persons with severe disabilities by starting or expanding for-profit businesses. The program has five components; (a) direct technical assistance provided by Commerce staff to individuals, small businesses, or nonprofit organizations; (b) technical assistance grants to those entities; (c) technical assistance self-employment grants to disabled individuals; and (d) management assistance, working capital and fixed asset financing grants and loans to individuals, small businesses or nonprofit organizations. BDI is funded by both a GPR and program revenue repayments appropriation. Base level funding for the program is $150,000 GPR and $60,000 PR.

[Act 109 Sections: 29, 30 and 475 thru 504]

3. PROGRAM REVENUE LAPSES [LFB Paper 1121]

GPR-REV	$1,101,800
PR-Lapse	1,101,800

Governor/Legislature: Lapse a total of $512,500 in 2001-02 and $589,300 in 2002-03 to the general fund from the following PR appropriations.

	2001-02	2002-03
Economic Development -- Gifts, Grants and Proceeds	$100,000	$0
Wisconsin Development Fund Administration	50,000	0
American Indian Economic Liaison and Gaming Grants Specialist and Program Marketing	50,000	0
Regulation of Industry, Safety and Buildings -- Auxiliary Services	35,000	50,000
Safety and Buildings Operations	207,500	439,300
Sale of Materials or Services	70,000	100,000
Total	$512,500	$589,300

[Act 109 Section: 9259(1)]

4. PETROLEUM INSPECTION FUND

GPR-REV	$1,183,500
SEG-Transfer	1,183,500
SEG	- $1,183,500

Governor/Legislature: Transfer $428,500 in 2001-02 and $755,000 in 2002-03 to the general fund from the petroleum inspection fund. Further, reduce the following SEG petroleum inspection fund appropriations by a total of $428,500 in 2001-02 and $755,000 in 2002-03.

	2001-02	2002-03
Petroleum inspection operations	$365,500	$665,000
PECFA administration	63,000	90,000
Total	$428,500	$755,000

[Act 109 Sections: 9210(2) thru (4)]

5. GRANTS MANAGEMENT OFFICE [LFB Paper 1136]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	$82,300	1.00	- $82,300	- 1.00	$0	0.00

Governor: Provide $26,000 GPR in 2001-02 and $56,300 GPR in 2002-03 and 1.0 unclassified GPR grants management specialist to establish a grants management office in Commerce. The salary for the unclassified position would be determined by the appointing authority. The Department would be required to operate the office for all of the following purposes: (a) to identify public and private sources of grants; (b) to serve as a clearinghouse for federal and state grants and privately funded grants; (c) to offer to governmental agencies, nonprofit organizations, school boards, operators of charter schools, and governing bodies of private schools training and assistance in pursuing grants.

Joint Finance/Legislature: Delete provision.

6. WISCONSIN DEVELOPMENT FUND -- TECHNOLOGY DEVELOPMENT GRANTS AND LOANS

Joint Finance/Legislature: Require that beginning with the 2001-03 biennium, $364,400 in Wisconsin Development Fund technology grants or commercialization loans be awarded in each biennium for projects that involve research and development or commercialization activities related to the reduction of pollution or the conservation of energy.

Veto by Governor [B-2]: Delete provision.

[Act 109 Vetoed Sections: 504c and 504m]

7. WISCONSIN DEVELOPMENT FUND

	Legislature	Veto (Chg. to Leg)	Net Change
GPR	- $1,000,000	$1,000,000	$0

Senate: Delete $3,000,000 GPR in 2002-03 from the Wisconsin Development Fund (WDF). Funding for the WDF would total $7 million in 2002-03 ($2,953,800 GPR and $4,050,000 PR from repayments).

Conference Committee/Legislature: Delete $1,000,000 GPR in 2002-03 from the Wisconsin Development Fund (WDF). Funding for the WDF would total $9 million in 2002-03 ($4,953,800 GPR and $4,050,000 PR from repayments).

Veto by Governor [B-3]: Delete provision. Funding for the WDF would remain at the current law level of $10 million [$5,953,800 GPR and $4,050,000 PR].

[Act 109 Vetoed Section: 9210(10w)]

8. CONVERT FUNDING SOURCE FOR DIVISION OF INTERNATIONAL AND EXPORT SERVICES

	Legislature		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $500,000	- 2.50	$0	2.50	- $500,000	0.00
PR	500,000	2.50	- 500,000	- 2.50	0	0.00
Total	$0	0.00	- $500,000	0.00	- $500,000	0.00

Senate: Delete $1,893,000 GPR and 10.0 GPR positions in 2002-03 and provide expenditure authority of $1,893,000 PR and 10.0 PR positions in 2002-03 to convert the funding source for the Division of International and Export Services from GPR to PR. Commerce is currently authorized to charge fees for services provided to businesses and funds are placed in the Department's gifts and grants appropriation. Fees and donations would be the source of program revenue funding for the Division, beginning on July 1, 2002.

The Division of International and Export Services in the Department of Commerce assists Wisconsin businesses in increasing their sales in the international marketplace. The Division contracts with individuals or agencies in foreign countries for assistance in the growth of Wisconsin exports and the promotion of Wisconsin as an investment location. The Division contracts with individuals to operate dedicated trade offices, shares trade offices with other states and has personal service contracts with companies for export assistance in countries in Europe, Asia, Africa, and North and South America. The Division has international outreach consultants in regional offices to assist businesses in expanding into international markets. Designated staff members specialize in specific regions of the world to help exporters adapt their export activities to targeted countries. Additional staff activities include arranging itineraries of visiting business delegations, organizing Governor-led trade missions and sponsoring participation in trade shows, missions and events. The Division also administers the Wisconsin Development Fund (WDF) trade show grant program.

Conference Committee/Legislature: Modify Senate provision to delete $500,000 GPR and 2.5 GPR positions and provide expenditure authority of $500,000 PR and 2.5 PR positions in

2002-03 to partially convert the funding source for the Division of Internal and Export Services from GPR to PR.

Veto by Governor [B-6]: Delete provisions that would have eliminated 2.5 GPR positions and would have provided $500,000 PR and 2.5 PR positions in 2002-03. In his veto message, the Governor indicates that he will request the Secretary of Administration not to authorize the 2.5 PR positions in 2002-03. The Governor's veto would not affect the reduction in GPR funding included in the bill.

[Act 109 Sections: 28n, 29n, 9210(11z) and 9410(1z)]

[Act 109 Vetoed Sections: 9110(1z) and 9210(11z)]

9. GRANT TO FORWARD WISCONSIN

	Legislature	Veto (Chg. to Leg)	Net Change
GPR	$50,000	- $50,000	$0

Senate/Legislature: Provide $50,000 GPR in 2002-03 for a one-time grant to Forward Wisconsin, Inc., to contract for a study and the creation of a proposal for a national brand image for the state related to technology and biotechnology. Commerce would be required to enter into an agreement with Forward Wisconsin, Inc., that specifies the uses for the grant proceeds and reporting and auditing requirements. Commerce would be required to submit a report by December 31, 2003, to the appropriate standing committees of the Legislature that includes the results of the study and the conclusions and recommendations of Forward Wisconsin, Inc., with respect to a proposal for a national brand image for the state.

Veto by Governor [B-4]: Delete provision.

[Act 109 Vetoed Sections: 17u, 17v, 26 (as it relates to 20.143(1)(bp)), 28no, 28p, 9110(1c) and 9410(1e)]

10. EXEMPT HORSE BOARDING AND HORSE TRAINING FACILITIES FROM BUILDING CODE

Assembly: Incorporate the provisions of AB 446, as passed by the Assembly, to exempt horse boarding facilities and horse training facilities that do not contain an area for the public to view a horse show from the definition of "place of employment" and "public building," thus exempting them from state building code requirements related to construction standards, plan

submission and building plan approval. 2001 Act 16 exempted horse boarding facilities and horse training facilities that do not contain an area for the public to view a horse show from the definition of "place of employment" if the facility first operated between August 1, 2000, and October 1, 2001, and from the definition of "public building" if the initial construction of the facility began between August 1, 2000, and October 1, 2001.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-5]: Delete provision.

[Act 109 Vetoed Sections: 267m and 267q]

11. FIRE DUES PROGRAM

Assembly: Make the following changes related to the Commerce fire dues program: (a) prohibit Commerce from withholding fire dues distribution payments to ineligible fire departments for payments made for grant years that began after August 1, 2000, and end on or before August 1, 2005 (This would apply to fire dues payments for four calendar years, beginning in 2000, paid in state fiscal year 2000-01, through calendar year 2004, paid in 2004-05); (b) direct Commerce to make a fire dues payment to local governments that were ineligible in 2000-01 equal to the amount they would have received if they were eligible in that year; and (c) prohibit Commerce from conducting audits of fire departments to determine eligibility for fire dues payments until after August 1, 2005. Commerce would be required to make the payment for calendar year 2000 by August 1, 2002, to calculate the calendar year 2001 dues within 30 days after the effective date of the act and then pay calendar year 2001 dues by August 1, 2002.

Any insurer doing a fire insurance business in the state must pay, subject to retaliatory and reciprocal insurance tax law provisions, fire department dues equal to 2% of the amount of all Wisconsin based premiums paid to the company during the preceding calendar year for insurance against loss by fire, including insurance on property exempt from taxation. In addition, fire department dues also include 2% of the premiums paid to the state fire fund for the insurance of any public property, other than state property. Commerce is responsible for the distribution of fire dues to cities, villages and towns that maintain fire departments or contract for fire protection if the municipalities meet specific criteria. Distribution of the funds is based on the equalized valuation of real property improvements on land within the qualifying cities, towns and villages. Fire dues for calendar year 2000 were certified in May, 2001, and paid in July, 2001, from the 2000-01 appropriation. Commerce calculated the amount that every local government would receive if all local governments were eligible, and paid that amount only to eligible local governments. If Commerce had followed the statutory requirement to calculate the amount that eligible local governments would receive, and paid that amount, eligible local

governments would have received a higher payment. A total of 1,785 municipalities received a total of $8,882,438 in fire dues payments. An additional 65 municipalities (3.5%) were not eligible and did not receive fire dues payments totaling $81,969 (0.9%). Under the provision, Commerce would distribute $81,969 to the 65 ineligible municipalities. Commerce would not have to adjust the payments made to the 1,785 eligible municipalities in 2000-01.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 30f, 269r and 269t]

COMPENSATION RESERVES

1. FUNDING FOR LENGTH OF SERVICE PAYMENTS

GPR	- $5,195,700
FED	- 1,408,300
PR	- 3,811,200
SEG	- 887,200
Total	- $11,302,400

Joint Finance/Legislature: Delete funding included in compensation reserves under Act 16 for length of service payments to classified state employees. Reduce compensation reserves by the following amounts in 2001-02 and 2002-03:

	Reduction Amount	
Fund Source	2001-02	2002-03
GPR	-$2,511,200	-$2,684,500
FED	-680,700	-727,600
PR	-1,842,100	-1,969,100
SEG	-428,800	-458,400
Total	-$5,462,800	-$5,839,600

[Act 109 Sections: 9101(8y) and 9259(8y)]

2. FUNDING FOR PAY INCREASES FOR CERTAIN EMPLOYEES

	Jt. Finance	Legislature (Chg. to JFC)	Net Change
GPR	- $10,000,000	$10,000,000	$0
FED	- 2,732,400	2,732,400	0
PR	- 7,341,600	7,341,600	0
SEG	- 1,709,100	1,709,100	0
Total	- $21,783,100	$21,783,100	$0

Joint Finance: Reduce funding included in compensation reserves under Act 16 by the amounts shown in the table below for 2002-03. Provide that in submitting recommended pay plan supplement requests for state agencies to the Joint Committee on Finance for fiscal year 2002-03, the Secretary of the Department of Administration shall ensure that such supplement requests do not include any proposed funding for the cost of pay increases to those state employees whose base salaries at the end of fiscal year 2001-02 were at the higher end of the state's pay scale, as determined by the Department of Administration.

Fund Source	2002-03 Reduction Amount
GPR	-$10,000,000
FED	-2,732,400
PR	-7,341,600
SEG	-1,709,100
Total	-$21,783,100

Assembly/Legislature: Delete provision.

3. REDUCE SECOND YEAR COMPENSATION RESERVE

Assembly: Reduce the remaining funding in compensation reserves in 2002-03, after the 2002-03 amounts in Item #1 are deducted, so that the resulting final level of funding for fiscal year 2002-03 is the same amount that is available for fiscal year 2001-02. Delete the following additional amounts:

Fund Source	2002-03 Reduction Amount
GPR	-$54,426,700
FED	-14,890,900
PR	-40,000,400
SEG	-9,313,700
Total	-$118,631,700

Senate/Legislature: Delete provision.

CORRECTIONS

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $3,595,500	- $6,440,100	$6,440,100	- $3,595,500

Governor: Reduce the following GPR appropriations by a total of $1,229,400 in 2001-02 and $2,366,100 in 2002-03. In 2001-02, the amount represents 3.5% of Corrections' central office costs. In 2002-03, the amounts identified below, plus the other reductions summarized in subsequent entries under Corrections, represents 6.0% of Corrections' total sum certain appropriations less: (a) youth aids; (b) probation and parole hold reimbursements; (c) the community intervention program; (d) Mendota Juvenile Treatment Center funding; (e) the mother-youth child program; and (f) reimbursement for counties containing secured correctional facilities.

	Reduction Amount 2001-02	2002-03
General Program Operations	- $1,229,400	-$1,318,300
Institutional Repair and Maintenance		-201,300
Services for Community Corrections		-209,200
Fuel and Utilities		-617,000
Parole Commission General Program Operations		-5,600
Juvenile Corrections General Program Operations		-14,700
Total	-$1,229,400	-$2,366,100

Joint Finance: Reduce the Department's largest GPR state operations appropriation, the general program operations appropriation, by an additional $6,440,100 in 2002-03. This amount represents an additional 1% reduction in the agency's GPR state operations appropriations in 2002-03. Provide that Corrections may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to other Corrections' sum certain, state operations appropriations funded from GPR.

Assembly: Delete Joint Finance provision.

Senate: Increase the across-the-board reduction recommended by the Joint Committee on Finance by $6,440,100 GPR in 2002-03. This amount represents an additional 1% reduction in the agency's GPR state operations appropriations in 2002-03. The total across-the-board reduction would be $1,229,400 GPR in 2001-02 and $15,246,300 GPR in 2002-03.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9211(3)(part),(4),(6)(part)&(8) thru (10)]

2. DELAYED CORRECTIONAL FACILITY OPENINGS [LFB Paper 1140]

	Governor		Jt. Finance (Chg. to Gov)		Legislature (Chg. to JFC)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $13,004,000	- 596.53	- $3,296,200	0.00	$5,446,300	36.51	- $10,853,900	- 560.02
PR	- 122,500	- 3.80	0	0.00	- 39,200	0.40	- 161,700	- 3.40
Total	- $13,126,500	- 600.33	- $3,296,200	0.00	$5,407,100	36.91	- $11,015,600	- 563.42

Governor: Delete $937,300 GPR and 25.0 GPR positions in 2001-02 and $12,066,700 GPR and 596.53 GPR positions and $122,500 PR and 3.8 PR positions in 2002-03 associated with delaying the opening of the following correctional facilities:

a. *Stanley Correctional Institution*. Provide $3,475,500 GPR in 2002-03 (-$796,100 in institutional reductions and $4,271,600 in increased contract bed costs for 249 additional beds) to delay the opening of the Stanley Correctional Institution from July, 2002, to September, 2002. (It should be noted that $3.3 million GPR in 2001-02 in cost savings associated with the delay in opening Stanley would be retained by the Department to fund unspecified shortfalls in salaries and inmate health care costs.)

b. *New Lisbon Correctional Institution*. Delete $6,324,300 GPR and 276.1 GPR positions and $109,200 PR and 3.4 PR positions in 2002-03 to delay the opening of the New Lisbon Correctional Institution from June, 2003, to July, 2004. Included in the net GPR decrease are increases of $305,500 GPR and 0.5 GPR maintenance mechanic position for the temporary "mothballing" of the facility and $519,300 GPR in increased contract bed costs for 30 additional beds.

c. *Highview Geriatric Correctional Facility*. Delete $5,245,400 GPR and 210.43 GPR positions and $13,300 PR and 0.4 PR position in 2002-03 to delay the opening of the Highview Geriatric Correctional Facility from June, 2003, to July, 2004. Included in the net GPR decrease are increases of $499,900 GPR and 5.0 GPR positions (1.0 warden and 4.0 correctional sergeants) funded for 10 months for the temporary "mothballing" of the facility and $519,300 GPR in increased contract bed costs for 30 additional beds.

d. *Inmate Workhouses.* Delete $937,300 GPR and 25.0 GPR positions in 2001-02 and $541,500 GPR and 50.0 GPR positions in 2002-03 to delay the opening of the two 150-bed inmate workhouses to May, 2004. Under Act 16, the Winnebago workhouse is scheduled to open in May, 2002, and the Sturtevant workhouse is scheduled to open in January, 2003. Included in the net decrease is $275,600 GPR in 2001-02 and $3,790,200 GPR in 2002-03 in increased contract bed costs for 219 additional beds.

e. *Sturtevant Probation and Parole Hold Facility*. Delete $3,170,600 GPR and 50.0 GPR positions in 2002-03 to delay the opening of the Sturtevant Probation and Parole Hold Facility from January, 2003, to May, 2004. The facility will be located with the Sturtevant inmate workhouse.

f. *Oshkosh Correctional Institution Segregation Unit*. Delete $260,400 GPR and 10.0 GPR positions in 2002-03 to delay the opening of the Oshkosh Correctional Institution segregation unit from June, 2003, to July, 2004.

Joint Finance: Delete $3,296,200 GPR in 2001-02 related to cost savings at the Stanley Correctional Institution associated with the delayed opening.

Assembly: Delete Joint Finance provision. In addition, provide $480,200 GPR and 30.88 GPR positions and $1,200 PR and 0.4 PR position in 2002-03 for the New Lisbon Correctional Institution and $303,100 GPR and 5.63 GPR positions in 2002-03 for the Highview Geriatric Facility, to open the New Lisbon and Highview Correctional Institutions in January, 2004, rather than July, 2004.

Senate: Include Joint Finance provision. In addition, delete $3,465,300 GPR and 75.79 GPR positions and $6,100 PR and 0.8 PR position in 2001-02 and $6,185,800 GPR and 395.7 GPR positions and $128,300 PR and 2.8 PR positions in 2002-03 to delay the opening of the Stanley Correctional Institution from September, 2002, to March, 2004. Included in the net GPR decrease for Stanley is an increase of $14,770,500 GPR in 2002-03 for an additional 861 contract beds. Further, provide $507,500 GPR and 1.0 GPR position in 2002-03 to open the Sturtevant probation and parole hold and inmate workhouse in January, 2004, instead of May, 2004.

Conference Committee/Legislature: Include the Assembly provision. In addition, delay the opening of the Stanley Correctional Institution from September, 2002, to January, 2003. Reduce funding and positions by $3,448,800 GPR and 73.79 GPR positions and $6,200 PR and 0.8 PR position in 2001-02 and $3,743,300 GPR and $34,200 PR in 2002-03 associated with the operations of Stanley. Provide $8,558,900 GPR in 2002-03 for additional 499 contract beds associated with Stanley.

[Act 109 Sections: 9211(3)(part),(5)(part),(7)(part)&(11) thru (18vo)]

3. POSITION REDUCTIONS [LFB Paper 1120]

	Funding	Positions
GPR	- $10,264,800	- 190.75

Governor: Delete $10,264,800 GPR and 190.75 GPR positions in 2002-03 as follows: (a) -53.0 unit supervisors (-50.0 [of 61 GPR total] at unspecified correctional institutions and -3.0 [of five] at the Milwaukee Secure Correctional Facility), -$3,445,100; (b) -56.50 positions (-39.25 probation and parole agents, -3.25 probation and parole supervisors, -1.75 program assistant supervisor and -12.25 program assistants) to eliminate increased community corrections staffing provided in 2001 Act 16, -$3,060,800; (c) -33.0 correctional officers at the Dodge Correctional Institution related to positions utilized to cover officer break periods, -$1,220,600; (d) -1.0 supervising officer and -5.25 correctional officers to eliminate funding and positions provided in Act 16 for an expansion of the inmate transportation unit at the Dodge Correctional Institution, -$908,900; (e) -5.0 teachers and -3.0 teacher assistants to eliminate the second shift education program at the Stanley Correctional Institution provided in Act 16, -$338,200; (f) -3.0 correctional officers (at the Flambeau, Gordon and McNaughton Correctional Centers, respectively) provided in Act 16, -$120,400; (g) -1.0 teacher at Ellsworth Correctional Center that was provided in Act 16, -$49,300; (h) -3.0 chaplains, provided without funding in 2001 Act 16; and (i) -27.0 unspecified positions related to vacancies, -$1,121,500.

Senate: Restore $3,060,800 GPR and 56.5 GPR positions in 2002-03 associated with community corrections positions created in 2001 Act 16.

Conference Committee/Legislature: Include the Governor's recommendation.

[Act 109 Sections: 9211(19)&(20)]

4. EMERGENCY RULES REGARDING FEES FROM PERSONS ON PROBATION, PAROLE OR EXTENDED SUPERVISION

PR-REV	$5,884,800
GPR	- $5,884,800
PR	5,884,800
Total	$0

Governor: Delete $5,884,800 GPR and provide $5,884,800 PR in 2002-03 to offset the following program revenue fee increase. Require Corrections to promulgate emergency rules that require the Department to have a goal of receiving at least $2 per day, if appropriate, from each person who is on probation, parole or extended supervision and who is not under administrative or minimum supervision. (Persons under administrative or minimum supervision are charged a separate fee sufficient to cover the cost of supervision.) The Department would not be required to provide evidence that promulgating an emergency rule is necessary for the preservation of the public peace, health, safety or welfare and would not be required to provide a finding of emergency. The rules would be required to take effect on July 1, 2002, but could not remain in effect longer than is provided under current law for emergency rules (150 days, with possible extensions up to an additional 120 days).

Under current law, Corrections is required to charge a fee to probationers, parolees and persons on extended supervision to partially reimburse the Department for the costs of providing supervision and services, deposited to an appropriation of $5,303,300 PR annually utilized to provide probation, parole and extended supervision services. Corrections must set varying rates for probationers, parolees or persons on extended supervision based on ability to pay and with the goal of receiving at least $1 per day, if appropriate, from each probationer, parolee and person on extended supervision. The Department is required to promulgate rules setting these rates and providing the procedure and timing for collecting the fees charged.

Under current law, an agency may promulgate an emergency rule without complying with the notice, hearing and publication requirements if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with these procedures. Each copy, notice or description of an emergency rule must be accompanied by a statement of the emergency finding by the agency.

The Governor estimates that the fee increase will generate $5,884,800 in additional program revenues in 2002-03.

Joint Finance/Legislature: Include provision. In addition, permit Corrections, in adopting administrative rules regarding fees from persons on probation, parole or extended supervision, to establish a declining supervision fee on a case-by-case basis based on an offender's supervision level.

Veto by Governor [D-4]: Delete the provision which would permit Corrections, in adopting administrative rules regarding fees from persons on probation, parole or extended supervision, to establish a declining supervision fee on a case-by-case basis based on an offender's supervision level.

[Act 109 Sections: 431g, 431k, 9111(2) and 9211(6)(part)&(21)]

[Act 109 Vetoed Sections: 431g and 431k]

5. PRISON CONTRACT BED FUNDING [LFB Paper 1120]

GPR	- $6,497,000

Governor/Legislature: Delete funding for contract beds as follows: (a) $2,890,800 in 2002-03 to reduce funding for 180 prison contract beds at the current Corrections Corporation of America contract rate of $44 per day; and (b) $3,606,200 in 2002-03 to eliminate funding associated with 190 Wisconsin county jail bed contracts.

[Act 109 Section: 9211(5)(part)]

6. FUEL AND UTILITIES LAPSE ESTIMATE

GPR-Lapse	$3,129,000

Governor/Legislature: Estimate the 2001-02 lapse amount from the agency's energy costs appropriation at $3,129,000. The agency is currently appropriated $13,012,300 GPR in 2001-02 for energy costs, with an additional $38,700 GPR in 2001-02 reserved in the Joint Committee on Finance supplemental appropriation. The agency's energy costs appropriation is not actually reduced under the bill; however, the fiscal effect of the estimated lapse is included in the general fund condition statement.

7. ROOM AND BOARD FEE INCREASE

PR-REV	$1,400,500
GPR	- $1,400,600
PR	1,400,500
Total	- $100

Governor/Legislature: Delete $1,400,600 GPR and provide $1,400,500 PR in 2002-03 to reflect anticipated program revenues to be generated by an increase in the room and board fee charged inmates, from $5.82 per day to $15 per day. These fees are set by departmental policy. The Governor estimates that the fee increase will generate $1,400,600 in additional program revenues in 2002-03.

[Act 109 Section: 9211(3)(part),(6)(part)&(22)(part)]

8. PROBATION AND PAROLE HOLD REIMBURSEMENTS

GPR	$1,381,900

Governor/Legislature: Provide $466,600 in 2001-02 and $915,300 in 2002-03 for payments to counties and tribal governing bodies for costs relating to maintaining persons in custody pending the disposition of their parole, extended supervision or probation revocation proceedings. The additional funding would increase probation and parole hold reimbursements in 2001-02 from $33.15 per day to $37 per day and, assuming the same number of total hold days in 2002-03, to an estimated $40 per day in 2002-03.

[Act 109 Section: 9211(2)]

9. COMMUNITY CORRECTIONS PURCHASE OF SERVICES FUNDING [LFB Paper 1141]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR	- $1,226,400	$1,226,400	$0

Governor: Delete $1,226,400 in 2002-03 in purchase of services funding in the Division of Community Corrections. This represents one-half of the funding increase provided in Act 16 in 2002-03 for purchase of services for offenders on probation, parole and extended supervision. Total community purchase of services funding would be $18,772,000 in 2001-02 and $17,815,900 in 2002-03. Purchase of services funding would be provided at an estimated $278 per offender on probation, parole and extended supervision in 2002-03 (exclusive of 800 offenders in the enhanced supervision program and absconders). Under Act 16, purchase of services was estimated at $300 per offender in 2001-02 and 2002-03. Purchase of services was funded at approximately $267 per offender in 2000-01.

Assembly: Reduce funding for community corrections purchase of services by $652,700 in 2002-03 to provide services at an estimated $267 per offender.

Senate/Legislature: Delete provision.

10. PHARMACOLOGICAL TREATMENT OF CHILD SEX OFFENDERS [LFB Paper 1142]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $342,500	- 1.00	$342,500	1.00	$0	0.00

Governor: Delete $342,500 and 1.0 position in 2002-03, and repeal the pharmacological treatment for certain child sex offenders. Repeal two required reports as follows: (a) by February 1, 2002, the Department of Corrections must submit a report to the Legislature concerning the extent to which the Department has required pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen as a condition of probation or parole and the effectiveness of the treatment in the cases in which its use has been required; and (b) by February 1, 2002, by the Department of Health and Family Services (DHFS) must submit a report to the Legislature concerning the extent to which pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen has been required as a condition of supervised release for a sexually violent person, if the person is a serious child sex offender, and the effectiveness of the treatment in the cases in which its use has been required. The effective date of the provisions would be July 1, 2002.

Under current law, the Parole Commission or Corrections may require as a condition of parole that a serious child sex offender undergo pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. Corrections is not prohibited from requiring pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen as a condition of probation. In deciding whether to grant a serious child sex offender release on parole, the Parole Commission may not consider, as a factor in making its decision, that the offender is a proper subject for pharmacological treatment using an

antiandrogen or the chemical equivalent of an antiandrogen or that the offender is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. Further, DHFS, in considering a petition for supervised release of a sexually violent person may consider what arrangements are available to ensure that the person has access to and will participate in necessary treatment, including pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen if the person is a serious child sex offender. A decision on a petition filed by a person who is a serious child sex offender may not be made based on the fact that the person is a proper subject for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen or on the fact that the person is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The program became effective on January 1, 1999, with offender evaluations beginning January, 2001. Through January 22, 2002, six offenders are receiving treatment under the program.

Joint Finance/Legislature: Delete provision.

11. EMERGENCY RULES REGARDING PRISONER COPAYMENTS FOR MEDICAL AND DENTAL CARE

PR-REV	$235,000
GPR	- $235,000
PR	235,000
Total	$0

Governor/Legislature: Delete $235,000 GPR and provide $235,000 PR in 2002-03 to offset the following program revenue fee increases. Require Corrections to promulgate emergency rules relating to the deductible, coinsurance, copayment or similar charge that must be imposed under current law for medical or dental services requested by a resident of a prison or secured juvenile correctional facility. Subject to the waiver provisions under current law, require each person to pay a deductible, coinsurance, copayment or similar charge of at least $7.50 for each request that a person makes for medical or dental services. The Department would not be required to provide evidence that promulgating an emergency rule is necessary for the preservation of the public peace, health, safety or welfare and would not be required to provide a finding of emergency. The rules would be required to take effect on July 1, 2002, but may not remain in effect longer than is provided under current law for emergency rules (150 days, with a possible extensions up to an additional 120 days).

Under current law, Corrections may require a resident housed in a prison or in a secured juvenile correctional facility, who receives medical or dental services, to pay a deductible, coinsurance, copayment, or similar charge upon the medical or dental service that he or she receives. Further, if the resident requests the medical services or dental services, Corrections must require the resident to pay the deductible, coinsurance, copayment or similar charge. The Department may not charge the person less than $2.50 for each request. No provider of services may deny care or services because the resident is unable to pay the applicable deductible, coinsurance, copayment or similar charge, but an inability to pay these charges does not relieve the resident of liability for the charges unless the Department excepts or waives the liability under criteria that the Department must establish by rule. The Department is also required to

promulgate rules to establish: (a) the specific medical or dental services on which a deductible, coinsurance, copayment or similar charge may or must be imposed; and (b) the amounts of deductibles, coinsurances, copayments or similar charges for the medical or dental services.

Under current law, an agency may promulgate an emergency rule without complying with the notice, hearing and publication requirements if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with these procedures. Each copy, notice or description of an emergency rule must be accompanied by a statement of the emergency finding by the agency.

The Governor estimates that the fee increase will generate $235,000 in additional program revenues in 2002-03.

[Act 109 Sections: 9111(3) and 9211(3)(part)&(22)(part)]

12. ELIMINATE THE INMATE SECURE WORK PROGRAM

	Funding	Positions
GPR	- $171,500	- 3.00

Governor/Legislature: Delete $171,500 and 3.0 positions in 2002-03, and repeal the Department's authority to establish a secure work program for inmates, effective July 1, 2002. Under current law, Corrections may establish a secure work program for inmates in which the inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes. Inmates who are on work assignments must wear distinctively colored outer garments.

Veto by Governor [D-3]: Delete the repeal of the Department's authority to establish a secure work program for inmates. The reduction in funding and positions, however, is retained.

[Act 109 Section: 9211(1)]

[Act 109 Vetoed Sections: 421, 428 and 9411(2)]

13. VISITORS BUS

	Governor	Legislature (Chg. to Gov)	Veto (Chg. to Leg)	Net Change
GPR	- $60,000	$0	$0	- $60,000
PR	0	60,000	- 60,000	0
Total	- $60,000	$60,000	- $60,000	- $60,000

Governor: Delete $60,000 GPR in 2002-03 to eliminate the program that provides inmates' families with free bus rides from Milwaukee to various state prisons for visits with inmates.

Senate/Legislature: Modify the Governor's recommendation by creating an annual program revenue appropriation funded at $60,000 PR in 2002-03 for inmate visitor transportation. Specify that Corrections may do any of the following to pay the cost of transporting persons visiting inmates in state prisons: (a) charge a reasonable fee to persons to whom the transportation is provided; or (b) use money received from gifts, grants, donations and burial trusts that is provided for the purpose of paying for the cost of transportation. Include the $60,000 GPR reduction in 2002-03 associated with the program.

Veto by Governor [D-2]: Delete $60,000 PR in 2002-03, the creation of the PR appropriation and the provisions allowing Corrections to use program revenue to pay the cost of transporting persons for this purpose.

[Act 109 Section: 9211(7)(part)]

[Act 109 Vetoed Sections: 26 (as it relates to s. 20.410(1)(gv)), 37m, 377b, 377c and 377d]

14. SUPERMAX CORRECTIONAL INSTITUTION CONVERSION STUDY

Joint Finance/Legislature: Direct the Department of Corrections and the Department of Administration to conduct a study of the conversion of the Supermax Correctional Institution from a supermax security-level institution to an institution with supermax security-level beds and maximum-security beds. Direct that the study include a discussion of the operational costs for the redesigned facility. Require Corrections to report its findings, conclusions and recommendations to the Building Commission for potential inclusion in the 2003-05 capital budget.

Veto by Governor [D-5]: Delete provision.

[Act 109 Vetoed Section: 9111(4q)]

15. INVOLUNTARILY UNASSIGNED INMATE WAGES

Assembly: Reduce funding by $533,600 in 2002-03 associated with wages for inmates who are involuntarily unassigned to work or program activities. Currently, these inmates receive a wage of $0.08 per hour.

Senate/Legislature: Delete provision.

16. REQUIREMENTS FOR OUT-OF-STATE PRISON BED CONTRACTING

Assembly: Require the Department of Corrections, when contracting for the placement of inmates in out-of-state correctional facilities, to give preference to entities that will: (a) house prisoners at facilities in close proximity to Wisconsin; (b) offer a facility that will provide alcohol and other drug abuse treatment, education, job preparation and other elements of treatment designed to prepare prisoners for their return to the community; (c) offer a facility that provides comprehensive assessment of individuals in order to establish effective courses of treatment and rehabilitation, including academic and vocational training, with the goal of eventual successful reintegration of the prisoner into the community; and (d) offer a facility that is staffed by trained, certified professionals and is managed and supervised by a team of licensed professionals, including educators, certified counselors, vocational specialists and medical professionals. Require that Corrections give preference to these entities only if they offer a daily rate that is comparable to the lowest good faith rate offered by other entities offering facilities for out-of-state placement of prisoners.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [D-6]: Delete provision.

[Act 109 Vetoed Sections: 377db, 377dc and 377df]

17. COSTS OF JUVENILE COMPETENCY EXAMINATIONS

Assembly: Include the provisions of AB 745, which provide that a county that pays the cost of a competency examination relating to a juvenile who is believed to have committed a delinquent act may recover a reasonable contribution toward that cost or the examination from the juvenile's parent or guardian, based on the ability of the parent or guardian to pay. Under current law, if there is probable cause to believe that a juvenile has committed a delinquent act and if there is reason to doubt the juvenile's competency to proceed, or if a juvenile enters a plea that the juvenile is not responsible for an alleged delinquent act by reason of mental disease or defect, the juvenile court is required to order the juvenile to be examined by a psychiatrist or psychologist, who must render an opinion as to the juvenile's mental capacity to understand the proceedings and to assist in his or her defense or as to whether at the time of the act the juvenile lacked the capacity to appreciate the wrongfulness of his or her conduct or to conform that conduct to the requirements of the law. The county of the juvenile court is required to pay the cost of the examination. Under the provision, a county would be permitted to recover from the juvenile's parent or guardian, based on the ability to pay of the parent or guardian, a reasonable contribution toward this cost.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 100vn, 374e, 529km, 529L and 9311(2f)]

18. INFORMATION TECHNOLOGY RELATED PROGRAM REVENUE LAPSE

GPR-REV	$2,267,800
PR Lapse	$2,267,800

Senate/Legislature: Direct the Secretary of the Department of Administration, in 2001-02, to lapse to the general fund $2,267,800 from the Department of Corrections' interagency and intra-agency programs appropriation associated with information technology.

Veto by Governor [D-1]: Delete the reference to the interagency and intra-agency programs appropriation in Corrections. As a result, the Secretary of DOA is directed to lapse $2,267,800 to the general fund from an unspecified appropriation or appropriations.

[Act 109 Section: 9211(2c)]

[Act 109 Vetoed Section: 9211(2c)]

19. INTENSIVE SANCTIONS PROGRAM

Senate: Provide $697,300 and 9.25 positions in 2002-03 to staff and fund the intensive sanctions program to support a total population of 400 offenders. Reduce prison contract bed funding by $566,300 in 2002-03 associated with decreased prison populations. Placing 400 offenders in the program is estimated to reduce costs to Corrections by approximately $2.2 million in 2003-04 and $4.0 million on an annualized basis beginning in 2004-05.

Modify current statutory language related to the use of the intensive sanctions program under truth-in-sentencing to:

a. Delete the requirement that a judge may not sentence an individual to the intensive sanctions program for an offense that occurs on or after December 31, 1999.

b. Delete the provision that an offender convicted of an offense that occurs on or after December 31, 1999 is not eligible for the program while serving the confinement portion of a bifurcated sentence.

c. Specify that a court, in its sole discretion, may order a person to participate in the intensive sanctions program during the confinement portion of a bifurcated sentence.

d. Allow a sentencing judge to determine the date at which an offender may be eligible for release to the community portion of the program, but specify that this may be no sooner than one year or longer than two years. Specify that a court may make the intensive sanctions program a condition of extended supervision.

e. Require that the determination to place a person sentenced under a bifurcated sentence in the community portion of the intensive sanctions program is solely the discretion of the sentencing court, based on a recommendation from the Department of Corrections at the time of the potential placement decision. Specify that if a court places a person in the community portion of the intensive sanction program, the total length of the bifurcated sentence remains the same, but the confinement portion is shortened and the extended supervision portion is increased by equal amounts. Specify that the court may not increase the length of a bifurcated sentence when making the modification for intensive sanctions community placement.

f. Specify that no earlier than 30 days before the eligibility date specified by a court, Corrections may petition the court for permission to release a person to the community portion of the intensive sanctions program. Upon the filing of a petition, allow a court, with or without a hearing, to authorize Corrections to release the person from his or her placement any time after the eligibility date. If a court schedules a hearing on the petition, require the clerk of the circuit court in which the petition is filed to send a copy of the petition and a notice of hearing to the victim of the crime committed by the inmate, if the victim has submitted a card requesting notification, at least 10 days before the date of the hearing. Specify that the notice inform the victim that he or she may appear at the hearing and inform the victim of the manner in which he or she may provide written statements concerning the inmate's petition for release to extended supervision. Require the Director of State Courts to design and prepare cards for a victim to send to the clerk of the circuit court in which the inmate is convicted and sentenced.

g. Specify that if the court schedules a hearing on a petition, the clerk of the court will provide a copy of the petition and a notice of the hearing to the district attorney at least 10 days before the hearing.

h. Specify that a court or Corrections may require the person ordered to participate in the program to remain in the intensive sanctions program as a condition of extended supervision.

i. Specify that if a person is sentenced to the program and his or her extended supervision is revoked, the time remaining on the bifurcated sentence is the total length of the bifurcated sentence, less time served before release to extended supervision.

Specify that the current provisions of the intensive sanctions program continue to apply to persons convicted of offenses occurring before December 31, 1999.

Conference Committee/Legislature: Delete provision.

COURT OF APPEALS

1. ACROSS-THE-BOARD BUDGET REDUCTIONS

Joint Finance: Require the Chief Justice of the Supreme Court to take actions during 2001-03 to ensure that, from GPR state operations appropriations under the Circuit Courts, the Court of Appeals and the Supreme Court, a total of $3,742,500 is lapsed to the general fund. This lapse amount is equivalent to the sum of: (a) a 3.5% reduction in 2001-02 and a 6.0% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations; and (b) a 5.0% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court sum sufficient court operations appropriations.

Assembly: Include the Joint Finance provision except increase the GPR lapse by $342,700 to provide an additional lapse equivalent to the sum of a 0.5% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court GPR state operations appropriations.

Senate: Modify Joint Finance to reduce the required lapse to the general fund during 2001-03 from GPR state operations appropriations under the Circuit Courts, Court of Appeals and Supreme Court, from a total of $3,742,500 to $666,300. This lapse amount is equivalent to a 3.5% reduction in 2001-02 and a 6.0% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations.

Conference Committee/Legislature: Modify Joint Finance to require the Chief Justice of the Supreme Court to take actions during 2001-03 to ensure that, from GPR state operations appropriations under the Circuit Courts, the Court of Appeals and the Supreme Court, a total of $2,375,900 is lapsed to the general fund. This lapse amount is equivalent to the sum of: (a) a 3.5% reduction in 2001-02 and a 6.25% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations; and (b) a 2.75% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court sum sufficient court operations appropriations. (See "Supreme Court.")

[Act 109 Section: 9247(2z)]

DISTRICT ATTORNEYS

1. ACROSS-THE-BOARD BUDGET REDUCTION

	Jt. Finance	Legislature (Chg. to JFC)	Veto (Chg. to Leg)	Net Change
GPR	- $361,100	- $180,600	$541,700	$0
GPR-Lapse	$0	$0	$541,700	$541,700

Joint Finance: Reduce the salaries and fringe benefits appropriation by $361,100 in 2002-03, which represents 1% of the appropriation.

Assembly: Reduce the salaries and fringe benefits appropriation by an additional $180,600 in 2002-03, which represents 0.5% of the appropriation.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [D-7]: Delete provision. In the veto message, the Governor requests that the Secretary of the Department of Administration place $541,700 from the appropriation into unallotted reserve to lapse to the general fund in 2002-03.

[Act 109 Vetoed Section: 9213(1f)]

EDUCATIONAL COMMUNICATIONS BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $494,100	- $54,800	- $27,400	- $576,300

Governor: Reduce the following GPR appropriations by a total of $203,400 in 2001-02 and $290,700 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	- $134,500	- $192,200
Milwaukee Area Technical College	-11,600	-16,500
Transmitter Operation	-900	-1,300
Programming	-56,400	-80,700
Total	-$203,400	-$290,700

Joint Finance: Reduce the ECB's largest GPR state operations appropriation by an additional $54,800. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of ECB's other sum certain, state operations appropriations funded from GPR.

Assembly: Reduce the Educational Communications Board's largest GPR state operations appropriation by an additional $27,400. This amount represents an additional 0.5% reduction in the board's state GPR operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the agency's other sum certain, state operations appropriations funded from GPR

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9214(1) thru (4) and 9259(7z)]

2. FUEL AND UTILITIES LAPSE ESTIMATE

GPR-Lapse	$81,700

Governor/Legislature: Estimate the 2001-02 lapse amount from the agency's energy costs appropriation at $81,700. The agency is currently appropriated $409,700 GPR in 2001-02 for energy costs. The agency's energy costs appropriation is not actually reduced under the bill; however, the fiscal effect of the estimated lapse is included in the general fund condition statement.

ELECTIONS BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $80,400	- $9,300	- $4,600	- $94,300

Governor: Reduce the following GPR appropriations by a total of $34,000 in 2001-02 and $46,400 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	- $32,400	- $46,400
Training of Chief Inspectors	-1,600	-0
Total	-$34,000	-$46,400

Joint Finance: Reduce the Elections Board's largest GPR state operations appropriation, the general program operations appropriation, by an additional $9,300 in 2002-03. This amount represents an additional 1% reduction in the agency's GPR state operations appropriations in 2002-03. Provide that the Board may submit a request to the Joint Committee on Finance under s. 13.10, to reallocate any amount of this 1% reduction to other Board sum certain, state operations appropriations funded from GPR.

Assembly: Reduce the Elections Board's largest GPR state operations appropriation, the general program operations appropriation, by an additional $4,600 in 2002-03. This amount represents an additional 0.5% reduction in the agency's GPR state operations appropriations in 2002-03. Provide that the Board may submit a request to the Joint Committee on Finance under s. 13.10, to reallocate any amount of this 0.5% reduction to other Board sum certain, state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9215(1)&(2) and 9259(7z)]

2. TRAINING AND CERTIFICATION OF CHIEF INSPECTORS

Joint Finance/Legislature: Delay the implementation of the statutory requirements regarding the training and certification of chief inspectors from September 1, 2002, to September 1, 2004. In addition, transfer $38,400 GPR in 2001-02 from the Elections Board's training of chief inspectors appropriation to the Board's general program operations appropriation.

Under 2001 Act 16, a chief inspector training and certification program was created, which requires that all polling places have a certified chief inspector for all elections as of September 1, 2002, and provides that no person may serve as chief inspector who is not certified by the Board at the time of any election held on or after September 1, 2002. Act 16 provided $45,000 GPR in 2001-02 for the training of chief inspectors in a newly-created biennial training of chief inspectors appropriation.

Under the program, the Elections Board is required to: (a) prescribe, by rule, requirements for certification of individuals to serve as chief inspectors; (b) upon application, issue certificates with expiration dates to qualified individuals who meet the requirements to be certified as chief inspectors; (c) require each individual issued a chief inspector certificate to meet requirements to maintain that certification; (d) renew the certificate of any individual who requests renewal and meets the requirements established by the Board; (e) conduct regular training and administer examinations to ensure that individuals who are certified by the Board as chief inspectors are knowledgeable concerning their authority and responsibilities; and (f) pay all costs required to conduct chief inspector training and to administer the examinations.

[Act 109 Sections: 1160r and 9215(2v)]

3. SCHEDULING OF LOCAL GOVERNMENT REFERENDA

Assembly: Include the provisions of 2001 Assembly Bill 2, as amended by Assembly Amendments 1 and 5, which provide that, unless otherwise required by law or authorized under the procedure described below, a referendum held by any local governmental unit or technical college district board could only be held on the date of the spring primary, spring election, September primary, or general election, or on the 2nd Tuesday in September or the first Tuesday after the first Monday in November of an odd-numbered year.

Provide that if a local governmental unit wishes to hold a special referendum on a date that is not one of the above dates, the local governmental unit could petition a newly-created Referendum Appeal Board for a determination that an emergency exists with respect to a particular question. Require the Referendum Appeal Board to make a determination within 10 days after receipt of a petition. If the Referendum Appeal Board finds, with the concurrence of at least four members, that an emergency exists which requires a special referendum to be held

on a different date, authorize the Board to permit a referendum relating to the question specified in the petition to be held on a date determined by the local governmental unit.

Create a Referendum Appeal Board, to be attached to the Elections Board, consisting of the Governor, the Senate Majority Leader, the Senate Minority Leader, the Speaker of the Assembly and the Assembly Minority Leader or the designees of these persons. Provide that members of the Board would serve for indefinite terms.

Provide that these provisions would first apply with respect to referenda called on the effective date of the bill.

Senate/Legislature: Delete provision.

4. CAMPAIGN FINANCE PROVISIONS

	Funding	Positions
GPR	$85,100	2.00

Senate: Incorporate the provisions of LRBb2706/6, which is a modified version of engrossed 2001 Senate Bill 104 (SB 104). Provide $85,100 GPR and 2.0 GPR positions in 2002-03, in the Elections Board's general program operations appropriation. The positions would include a campaign finance investigator position and an auditor position. In addition, estimated funding in 2002-03, under these provisions, would include the following: (a) $6,103,700 GPR for nonsupplemental grant awards; and (b) $350,600 GPR for public information funding. These estimates are discussed below. Funding increases would be supported under the bill by two sum sufficient GPR appropriations, which provide funds to a segregated appropriation for the Wisconsin Election Campaign Fund (WECF). The segregated appropriation, under the Elections Board, provides WECF grants and public information. This appropriation would be increased by $6,454,300 SEG in 2002-03, to reflect the fiscal effect of these provisions.

There are two substantive changes made to SB 104: (a) a correction is made to avoid potential double awards to WECF grantees based on contributions to committees and disbursements by those same committees; and (b) $76,100 GPR and 2.0 GPR positions in 2001-02 (a campaign finance investigator position and an auditor position) are not provided. Funding and positions would instead be provided in 2002-03.

The major provisions of the bill are as follows:

A. Structure of the Wisconsin Election Campaign Fund

Current Law. The WECF is a segregated fund primarily supported through a voluntary $1 income tax check-off ($1 or $2 on joint returns) made by Wisconsin taxpayers that does not affect the amount of tax liability or tax refund. Since this check-off does not affect taxpayer liability, the amount generated from the check-off is transferred to the WECF from a sum sufficient GPR appropriation, currently estimated at $325,000 GPR annually.

The Election Campaign Fund is divided into eight separate accounts reflecting different public offices: (a) Governor; (b) Lieutenant Governor; (c) Secretary of State; (d) State Treasurer; (e) Attorney General; (f) Justice of the State Supreme Court; (g) Superintendent of Public Instruction; and (h) legislative offices. The legislative account is further divided into separate Senate and Assembly subaccounts. Following the August 15 annual certification by the Secretary of the Department of Revenue (DOR) as to the number of income tax check-off designations for the WECF, an amount equivalent to the total number of certified check-off designations is transferred from the general fund to the WECF. The amount of this transfer, plus all investment earnings accruing during the prior year on total fund balances and any additional gifts or donations, are apportioned to the eight separate accounts, as follows:

- If there is an election occurring for any nonpartisan statewide office (State Superintendent of Public Instruction or Justice of the Supreme Court) during the following year, 8% of the total annual revenues to the fund are placed in each of the nonpartisan accounts for which there will be an election. The distribution to these accounts is taken as a first draw on the total amount of funds available for allocation. The remaining annual revenues are then apportioned to the partisan office accounts as described below. However, if there is no election scheduled for a nonpartisan statewide office during the following year, the nonpartisan accounts will not receive any apportionment during that year and all annual revenues available for distribution will then be apportioned among the partisan office accounts.

- After any required distributions to the nonpartisan accounts are made, 75% of the revenues available for distribution to the partisan accounts are apportioned to the legislative account and 25% are apportioned to the executive accounts. Of the total amount allocated to the legislative account, 25% is apportioned to a Senate subaccount and 75% is apportioned to an Assembly subaccount. Of the amounts available for allocation to the executive accounts, 67% is apportioned to the account for Governor, 8% to the account for Lieutenant Governor, 17% to the account for Attorney General, and 4% each to the accounts for State Treasurer and Secretary of State.

In 1988, 1990, 1994, 1996, 1998, and 2000, the funds available in the accounts for some offices were insufficient to fully fund the maximum grant amounts for all eligible candidates. When this occurs, the grant for each office is prorated by dividing the actual amount of funding available in each office account by the number of eligible candidates for that office.

Bill. Eliminate the eight separate accounts under the WECF. Instead create political party accounts for each eligible political party and a general account. Provide that if a political party for which an account is established ceases to be an eligible political party, the Elections Board must transfer the unencumbered balance of that account to the general account.

Increase the voluntary income tax check-off to $5 ($5 or $10 on joint returns). Provide that each individual making a designation must indicate whether the amount designated will be

placed in the general account, for the use of all eligible candidates for state office, or in the account of an eligible political party. If an individual does not indicate a preference, his or her designation would be placed in the general account.

Create a GPR sum sufficient appropriation entitled Wisconsin election campaign fund supplement. Provide that the appropriation would receive funding equal to the amounts required to make full payment of grants which candidates qualify to receive from the WECF. Provide that funding be transferred from the general fund to the WECF no later than the time required to make payments of grants under the WECF.

Provide that an individual certified in the general election or a special election as the candidate of an eligible political party for a state office, other than district attorney, or an individual who has been lawfully appointed and certified to replace such an individual on the ballot at the general or a special election, qualifies for a grant from his or her political party account, provided that he or she otherwise qualifies for a grant under the WECF. Provide that the State Treasurer must make payment of each grant to an eligible candidate from the political party account of that candidate's political party, if any, if there are sufficient monies in that account to make full payment of the grant. If monies are insufficient, the required amounts would be paid from the general account. If there are insufficient monies in the general account to make full payment of a grant, provide that the State Treasurer must supplement the general account from the Wisconsin election campaign fund supplement appropriation in an amount sufficient to make full payment of the grant.

An eligible political party means: (a) a party qualifying for a separate ballot or one or more separate columns or rows on a ballot for the period beginning on the date of the preceding general election and ending on the day before the general election that follows that election; or (b) a party qualifying for a separate ballot or one or more separate columns or rows on a ballot for the period beginning on the preceding June 1, or if that June 1 is in an odd-numbered year, the period beginning on June 1 of the preceding even-numbered year, and ending on May 31 of the 2nd year following that June 1.

In each even-numbered year, the Elections Board must certify to the Secretary of Revenue: (a) no later than July 1, the name of each political party that qualifies as an eligible political party as of the preceding June 1 and whose state chairperson has filed a request to establish an account for the party; and (b) no later than December 15, the name of each political party that qualifies as an eligible political party as of the date of the preceding general election. Provide that the Elections Board must also certify to the Secretary of Revenue the full name of a candidate as the name appears on the candidate's nomination papers, as soon as possible after receiving a valid application from an eligible candidate and determining that the candidate is eligible to receive a WECF grant. Further, provide that the Elections Board must specify the expiration date of any certification that is made.

Provide that the Secretary of DOR must certify to the Elections Board, the Department of Administration and the State Treasurer, no later than the 15th day of each month, the total amount of WECF income tax check-offs made on returns processed by DOR during the preceding month and the amount of check-offs made during that month for the general account and for the account of each eligible political party.

If taxpayer check-offs to the WECF were to continue at the current rate, the $5 check-off is estimated to generate $1,625,000 GPR annually for transfer to the WECF, with an increase to the sum sufficient GPR appropriation of $1,300,000 annually. If these provisions are enacted by July 31, 2002, it is estimated that the Secretary of DOR would certify an additional $1,348,800 GPR from the WECF income tax check-off in 2002-03, compared to current law.

B. Spending Limits

Current Law. Candidates for state office are potentially eligible to receive a grant to support their campaigns from the WECF. To receive a grant, candidates must agree to abide by statutory spending limits applicable to the office for which they are running, which are identified in the table below.

Bill. Increase the spending limits applicable to candidates accepting WECF grants as identified below. Provide that, beginning with the 2005-07 biennium, the spending limits be subject to a cost-of-living adjustment to be determined by rule of the Elections Board. In determining the adjustment, direct the Board to calculate the percentage difference between the consumer price index for the 12-month period ending on December 31 of each odd-numbered year and the consumer price index for calendar year 2003. Define "consumer price index" to mean the average of the consumer price index over each 12-month period, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor. For each biennium, require the Board to adjust the spending limits by this percentage difference, rounded to the nearest multiple of $25 in the case of amounts of $1 or more. This amount must be in effect until a subsequent rule is issued by the Board. Specify that these determinations may be promulgated as an emergency rule without providing evidence that the emergency rule is necessary for the public peace, health, safety, or welfare, and without a finding of emergency.

Provide that a candidate for a partisan office (all offices except Justice of the State Supreme Court and Superintendent of Public Instruction) at a general or special election qualifies for a spending limit 120% of the spending limit otherwise applicable to the office for which the candidate is running, adjusted for cost-of-living, if: (a) the candidate's name appeared on the ballot for the office at a primary election preceding the general or special election; (b) the candidate received less than twice as many votes at that primary election as another candidate for the same office within the same political party; and (c) the candidate has an opponent in the general or special election who received at least 6% of the votes cast for all candidates for the office that the candidate seeks on all ballots at the September primary or any special primary preceding the general or special election.

The following table shows spending limits under current law and under these provisions for: (a) elections for which a candidate does not qualify for the primary-related limit; and (b) elections for which a candidate does qualify for the primary-related limit.

Spending Limits Under the WECF

Office	Current Law	Senate Provisions	
		Election	Election & Primary
Governor	$1,078,200	$2,000,000	$2,400,000
Lieutenant Governor	323,475	500,000	600,000
Attorney General	539,000	700,000	840,000
State Treasurer	215,625	250,000	300,000
Secretary of State	215,625	250,000	300,000
Superintendent	215,625	250,000	250,000
Justice	215,625	300,000	300,000
Senator	34,500	100,000	120,000
Representative	17,250	50,000	60,000

Fiscal Impact of Cost of Living Adjustment. Cost-of-living adjustments would not be made until the 2005-07 biennium; therefore, there would be no fiscal effect in 2001-03.

C. Nonsupplemental Wisconsin Election Campaign Fund Grants

Current Law. The maximum WECF grant amount that can be awarded to any candidate is 45% of the spending limit for the candidate's office. Any contribution from political action committees and other candidates' campaign committees reduces the maximum grant that could otherwise be awarded a candidate, dollar-for-dollar. The WECF does not provide primary election grants to recipients.

Bill. Provide that no candidate or personal campaign committee of a candidate who applies for a WECF grant may accept any contribution from a committee other than a political party committee.

Provide that the total nonsupplemental WECF grant available to an eligible candidate may not exceed an amount equal to the lesser of: (a) 45% (55% for eligible candidates qualifying for a primary election grant) of the spending limit for the candidate's office, adjusted for cost-of-living; or (b) that amount which, when added to all other contributions accepted by the candidate, is equal to the spending limit for the office that the candidate seeks, adjusted for cost-of-living. Provide that the referenced spending limit would be unadjusted for competitive partisan primary elections.

Provide that an eligible candidate qualifies to receive a primary election grant, in the form of an increased maximum nonsupplemental WECF grant as indicated above, if: (a) he or she qualifies to receive a WECF grant in a spring, general, or special election; (b) he or she was opposed in the spring or September primary, or in a special primary, by a candidate who qualified to have his or her name appear on the primary ballot; (c) the eligible candidate won nomination in that primary; and (d) he or she timely filed nomination papers with the Elections Board containing the required number of valid signatures of electors for the office that the candidate seeks (for statewide office, not less than 4,000 electors; for State Senator, not less than 800 electors; and for Assembly Representative, not less than 400 electors). The following table identifies maximum nonsupplemental WECF grants under current law and under the bill.

Maximum Nonsupplemental WECF Grants

		Senate Provisions	
Office	Current Law	Election	Election & Primary
Governor	$485,190	$900,000	$1,100,000
Lieutenant Governor	145,564	225,000	275,000
Attorney General	242,550	315,000	385,000
State Treasurer	97,031	112,500	137,500
Secretary of State	97,031	112,500	137,500
Superintendent	97,031	112,500	137,500
Justice	97,031	135,000	165,000
Senator	15,525	45,000	55,000
Representative	7,763	22,500	27,500

Fiscal Estimate of Nonsupplemental WECF Grants Under Bill. Applying Election Board assumptions as to participation by candidates in the WECF in 2002-03, and assuming all participating candidates would receive maximum nonsupplemental WECF grant funding, including the maximum primary grant, the following table shows estimated WECF grant funding in 2002-03, including an estimated $908,800 under current law.

Office	Maximum Grant	Number of # Grantees	Total	Election
Governor	$1,100,000	2	$2,200,000	General
Lieutenant Governor	275,000	2	550,000	General
Attorney General	385,000	2	770,000	General
State Treasurer	137,500	2	275,000	General
Secretary of State	137,500	2	275,000	General
Justice	165,000	2	330,000	Spring
Senator	55,000	10	550,000	General
Representative	27,500	75	2,062,500	General
Total			$7,012,500	

D. Supplemental Wisconsin Election Campaign Fund Grants

Current Law. The WECF does not provide supplemental grants to WECF grant recipients. "Committee" means any person, other than an individual, and any combination of two or more persons, permanent or temporary, that makes or accepts contributions or makes disbursements, whether or not engaged in activities that are exclusively political, except that a committee does not include any such person that makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum.

Bill--Supplemental Grants Generally. Provide that if a candidate receives a supplemental grant, the spending limit of that candidate for the campaign in which the grant is received is increased by the amount of that grant.

Supplemental Grants Offsetting an Opposing Candidate's Disbursements Exceeding the Applicable Spending Limit. Provide that if an eligible candidate at a primary or election, or both, who accepts a WECF grant is opposed by one or more candidates who make disbursements exceeding the spending limit for the office, adjusted for cost-of-living, then the Board must make an additional grant to the eligible candidate who accepts a WECF grant in an amount equal to the total amount or value of disbursements made by the opposing candidate or candidates exceeding the spending limit, adjusted for cost-of-living.

Supplemental Grants Offsetting Contributions to Committees. Provide that an eligible candidate who accepts a WECF grant qualifies for a supplemental grant to offset contributions to a committee if: (a) the eligible candidate is opposed by one or more candidates in a general or special election whose names are certified to appear on the ballot; and (b) the committee intends to receive or receives any contribution or contributions that are intended to be used, or that are used, to oppose the election of the eligible candidate who accepts a grant, or to support a certified opponent of that candidate without cooperation or consultation with any certified opposing candidate or such a candidate's agent or authorized committee, and not in concert with, or at the request or suggestion of any certified opposing candidate's agent or authorized committee. The Board must provide such supplemental grants in an amount equal to the total amount of contributions received for the purpose of advocating the election of the certified opposing candidate or for the purpose of opposing the election of the eligible candidate who accepts a WECF grant.

Supplemental Grants Offsetting Disbursements by Committees. Provide that if the sum of the aggregate disbursements made by committees against an eligible candidate who accepts a WECF grant and of the disbursements made by committees for that candidate's opponent, exceed 10% of the spending limit for the office that the eligible candidate seeks, adjusted for cost-of-living, then the Board must make an additional grant to the eligible candidate in an amount equal to the total amount of such disbursements made by each committee to the extent

that such amount exceeds the amount of any additional supplemental grant attributable to committee contributions received or intended to be received.

Fiscal Impact of WECF Supplemental Grants. The amount of committee contributions and disbursements, including issue ad disbursements, and candidate disbursements exceeding statutory spending limits, can vary widely from race to race and election cycle to election cycle. There are no current estimates of the potential cost of supplemental grants in 2002-03. It should be noted, however, that these provisions would establish no limit on the level of supplemental grants under the WECF. These grants would be funded from GPR sum sufficient appropriations.

E. Public Information

Provide that annually, no later than September 1, the Board may notify the State Treasurer that an amount not exceeding 5% of the amount transferred to the WECF in that year must be placed in a public information account. This funding must be expended by the Board for the purpose of providing public information concerning the purpose and effect of the WECF and of the WECF income tax check-off. As a part of this public information program, require the Board to prepare an easily understood description of the purpose and effect of the WECF and of the WECF income tax check-off. Further, provide that any amount placed in the public information account that is not expended by the Board in any year would be retained in that account. Specify that the Secretary of DOR must provide and highlight a place, in the income tax return instructions that accompany the return, for any public information submitted to the Secretary by the Elections Board, without cost to the Board.

Fiscal Estimate of Public Information Funding Provision. Based on current estimates of nonsupplemental WECF grant funding ($7,012,500), including primary grants, it is estimated that $350,600 GPR in public information funding may be provided in 2002-03.

F. Contribution Limits

Current Law. The contribution limits for both individuals and single committees are as follows: no individual or single committee, other than a political party committee or legislative campaign committee, may make any contribution or contributions of more than the amounts identified in the table below to: (a) a candidate for election or nomination for state office; and (b) any individual or committee making independent disbursements acting solely in support of such a candidate or solely in opposition to the candidate's opponent.

"Conduit" is defined as an individual who, or an organization which, receives a contribution of money and transfers the contribution to another individual or organization without exercising discretion as to the: (a) amount which is transferred; and (b) individual to whom, or organization to which, the transfer is made. A contribution received from a conduit is considered to be received from the original contributor who made the contribution to the

conduit, and not from the conduit, for purposes of contribution limits. As a result, contribution limits under current law apply to the original contributor and not to conduits.

Bill. Increase the current contribution limits for single committees and provide that conduits also be subject to the single committee contribution limits. The table below identifies the contribution limits for individuals and single committees under current law, and the revised limits for single committees and conduits that would be provided under this change.

Limitation on Contributions

	Current Law		Senate Provision
Office	Individual	Committee	Committee/Conduit
Governor	$10,000	$43,128	$45,000
Lieutenant Governor	10,000	12,939	15,000
Attorney General	10,000	21,560	25,000
State Treasurer	10,000	8,625	10,000
Secretary of State	10,000	8,625	10,000
Superintendent	10,000	8,625	10,000
Justice	10,000	8,625	10,000
Senator	1,000	1,000	1,000
Representative	500	500	500

G. Political Party Contributions

Increase from $150,000 to $450,000, the value of contributions which may be received by a political party in any biennium from all other committees, excluding transfers between party committees of the party. Increase from $6,000 to $18,000, the value of contributions which may be received by a political party in any calendar year from any single committee or its subunits or affiliates, excluding political party committees. Further, provide that no single committee, other than a political party committee, may make any contribution or contributions, directly or indirectly, to a political party in a calendar year exceeding a total of $18,000 (compared to $6,000 under current law).

H. Committee to Committee Contributions

Except for contributions made by one committee to another committee that are both affiliated with the same labor organization, provide that no committee may make a contribution to any other committee except a political party, personal campaign or support committee.

I. Total Contributions From Committees

Current Law. No individual who is a candidate for state office may receive and accept more than 45% of the spending limit for the office for which he or she is a candidate during any primary and election campaign combined from all committees, other than political party and legislative campaign committees, subject to a filing requirement. Including political party and legislative campaign committees, no individual who is a candidate for state office may receive and accept more than 65% of the spending limit for the office for which he or she is a candidate during any primary and election combined from all committees subject to a filing requirement. For purposes of these limitations, the WECF is considered a "committee." The table below identifies these total contribution limits from committees under current law for state offices eligible for WECF grants.

Bill. Eliminate the 45% and 65% provisions and set new contribution limits for: (a) political party committees; and (b) all committees other than political party committees. Provide that the WECF would not be considered a committee for purposes of contribution limits. The following table identifies total contribution limits from committees under current law and under these provisions.

Total Contributions From Committees

	Current Law		Senate Provisions	
Office	Non-Party and Non-Legislative Committees (45% Limit)	All Committees (65% Limit)	Political Party Committees	All Other Committees
Governor	$485,190	$700,830	$400,000	$485,190
Lieutenant Governor	145,564	210,259	100,000	145,564
Attorney General	242,550	350,350	100,000	242,550
State Treasurer	97,031	140,156	50,000	97,031
Secretary of State	97,031	140,156	50,000	97,031
Superintendent	97,031	140,156	50,000	97,031
Justice	97,031	140,156	50,000	97,031
Senator	15,525	22,425	24,000	15,525
Representative	7,763	11,213	12,000	7,763

J. Legislative Campaign Committees

Current Law. A legislative campaign committee is organized in either house of the Legislature to support candidates of a political party for legislative office. These committees are not required to file an oath regarding independent disbursements. No more than one legislative campaign committee may be established by the members of one political party in each house of the legislature. A legislative campaign committee may accept no contributions and make no contributions or disbursements exceeding the amounts authorized for a political

party. Further, amounts contributed by a legislative campaign committee to a political party are not subject to limitation.

Bill. Eliminate these provisions and the special status of legislative campaign committees.

K. Contributions to Partisan State Elective Officials During the Biennial Budget Process

Provide that no person may make a contribution to an incumbent partisan state elective official or to the personal campaign committee or support committee of that official for the purpose of promoting that official's nomination or reelection to the office held by the official during the period beginning on the first Monday of January in each odd-numbered year and ending on the date of enactment of the biennial budget act.

Notwithstanding the above provision, provide that a person may make a contribution to an incumbent partisan state elective official against whom a recall petition has been filed during the period beginning on the date that the petition is filed and ending on the date of the recall election, unless the official resigns.

L. State Elected Officials Soliciting Third-Party Campaign Contributions

Provide that no elective state official and no personal campaign committee of an elective state official may solicit a lobbyist or principal to arrange for another person to make a campaign contribution to that official or his or her personal campaign committee or to another elective state official or the personal campaign committee of that official.

M. Standard of Conduct for State or Local Public Officials Holding Elective Office

Provide that no state or local public official holding an elective office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person: (a) make or refrain from making a political contribution; or (b) provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to register under the campaign finance chapter, or any person making a communication that contains a reference to a clearly identified state or local public official holding an elective office or to a candidate for state or local public office. Specify that "clearly identified" when used in reference to a communication containing a reference to a person, means one of the following: (a) the person's name appears; (b) a photograph or drawing of the person appears; or (c) the identity of the person is apparent by unambiguous reference. Further, specify that "communication" means a message transmitted by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone call, or any medium that may be utilized for the purpose of

disseminating or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors.

Provide that no complaint alleging a violation of the provision may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election. Specify that the statute of limitations (three years) is suspended for a complaint alleging a violation of this provision for the period during which a complaint may not be filed.

Further, provide that if the Ethics Board determines that a state public official violated the provision, the Ethics Board may order the official to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained. Specify that if the Ethics Board determines that a state public official has violated the provision and no political contribution, service or other thing of value was obtained, the Ethics Board may order the official to forfeit an amount equal to the maximum contribution authorized for individuals to make for the office held or sought by the official, whichever amount is greater. Identical forfeiture provision to a court to potentially impose on local public officials for violations of the above provision.

Specify that if the Ethics Board refuses or otherwise fails to authorize an investigation against a state official with respect to a violation of this provision within 30 days after receiving a verified complaint alleging a violation, the person making the complaint may bring an action to recover the forfeiture permitted under this provision in the name, and on behalf, of the state. In such actions, specify that the court may award actual and necessary costs of prosecution, including reasonable attorney fees, if the private party prevails, but any forfeiture recovered shall be paid to the state. Specify that if the court finds that the private party's action was frivolous, the court must award costs and fees to the defendant.

Provide that if a District Attorney refuses or otherwise fails to commence an action against a local public official within 30 days after receiving a verified complaint alleging a violation of this provision, the person making the complaint may bring an action to recover the forfeiture permitted under this provision in the name, and on behalf, of the state. In such actions, specify that the court may award actual and necessary costs of prosecution, including reasonable attorney fees, if the private party prevails, but any forfeiture recovered shall be paid to the state. Specify that if the court finds that the private party's action was frivolous, the court must award costs and fees to the defendant.

N. Registration and Reporting Requirements

Current Law. Generally, individuals, other than candidates or agents of candidates, and committees, other than personal campaign committees, must file a registration statement if they accept contributions, incur obligations or make disbursements exceeding $25 in a calendar year.

For most purposes, a contribution or disbursement includes a gift, loan or advance of money or anything of value made for a "political purpose." The term "political purpose" includes the making of a communication which expressly advocates the election or defeat of a clearly identified candidate. Generally, registrants must also file complete reports of all contributions received, contributions or disbursements made, and obligations incurred. The reports must include information about the source of the contributions received and to whom contributions or disbursements are made.

However, if a disbursement is made or obligation incurred by an individual, other than a candidate, or by a committee or group which is not primarily organized for political purposes, and the disbursement does not constitute a contribution to any candidate or other individual, committee or group, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. This reporting exemption does not apply to a political party, legislative campaign, personal campaign or support committee.

Bill. Provide the following statement of Legislative intent: "The Legislature finds a compelling justification for minimal disclosure of all communications made near the time of an election that include a reference to a candidate at that election, an office to be filled at that election, or a political party in order to permit increased funding for candidates who are affected by those communications. This minimal disclosure burden is outweighed by the need to establish an effective funding mechanism for affected candidates to effectively respond to communications that may impact an election."

In addition, make the following provisions:

Communications for "Political Purposes"/Issue Ads. Expand the class of acts which are considered made for a "political purpose" to include a communication if the communication: (a) is made by means of one or more communications media (other than an exempt communication from corporations, cooperatives, voluntary associations or political party committees restricted solely to members); (b) is made during the period beginning on the 60th day preceding an election and ending on the date of that election; and (c) includes a reference to a candidate whose name is certified to appear on the ballot at that election, a reference to an office to be filled at that election, or a reference to a political party.

Reporting Independent Disbursements and Communications of Special Interest Committees. Provide that a special interest committee, other than a conduit, must report to the Elections Board as prescribed below, if without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or whose opponent is opposed, and not in concert with or at the request or suggestion of such a candidate, agent, or committee, it intends to receive any contribution, make any disbursement, or incur any obligation to make a disbursement for: (a) the purpose of advocating the election or defeat of a clearly identified candidate for a state office at the general or a special election, or any such candidate who seeks

a nomination for such an office at a primary election; or (b) a communication made for a "political purpose" as described above.

Under these conditions, provide that a special interest committee must report to the Board: (a) with respect to a candidate at the general election on the 63rd, 42nd and 21st day prior to that election; and (b) with respect to a special election on the 21st day prior to that election. Provide that under these circumstances a special interest committee must report to the Board, in such manner as the Board may prescribe, the name of each candidate who is supported or whose opponent is opposed, and the total amount of contributions to be received, disbursements to be made, and obligations to be incurred for such a purpose in support or opposition to that candidate during the 21-day period following the date on which the report is due to be filed.

Provide that when a special interest committee is required to file reports under this section, a special interest committee must also report financial activity to the Board: (a) with respect to a candidate at the general election no later than the 39th and 18th days prior to that election; and (b) with respect to a candidate at a special election no later than the 18th day prior to that election. Provide that a special interest committee report, in such manner as the Board may prescribe, the amount and date of each contribution received, disbursement made, or obligation incurred for the purpose of advocating the election or defeat of a candidate, and the name of the candidate in support of or in opposition to whom the contribution was received, disbursement made, or obligation incurred, during the 21-day period ending on the required reporting date.

New Reporting Requirements for Non-WECF Candidates. Provide that when a candidate for a state office who has not accepted a WECF grant makes any disbursement, after that candidate has accumulated cash in his or her campaign depository account or has made disbursements during his or her campaign exceeding a combined total of 75% of the spending limit for the office, adjusted for cost-of-living, the candidate or the candidate's personal campaign committee must file daily reports with the Board and with each candidate whose name is certified to appear on the ballot for the office in connection with which the disbursement is made, by electronic mail or facsimile transmission, on each day beginning with that date or the 7th day after the primary election or the date that a primary would be held, if required, whichever is later, and ending on the date of the election at which the candidate seeks office. Specify that each report must contain information pertaining to each disbursement made by the candidate or committee and must be filed no later than 24 hours after that disbursement is made. Further, provide that each report must include the same information concerning each disbursement that is required to be reported for other disbursements under current law regarding required financial election reports.

Provide that when a report is required to be filed with a candidate by electronic mail or facsimile transmission, the report must be filed at the address or number of the candidate or personal campaign committee as shown on the registration statement of the candidate or

committee. Further, provide that if no electronic mail address or facsimile transmission number is shown, the report must be filed at the mailing address shown on the statement.

Exempting State Office Independent Disbursements From the Filing Requirement. Provide that any individual or committee who or which is required to file an oath for independent disbursements and who or which accepts contributions, makes disbursements or incurs obligations for the purpose of supporting or opposing one or more candidates for state office and who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of $1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source exceeding $100 in that year may indicate on its registration statement that the individual or committee will not accept contributions, incur obligations or make disbursements in the aggregate in excess of $1,000 in any calendar year and will not accept any contribution or contributions from a single source exceeding $100 in any calendar year. Any registrant making such an indication is not subject to any filing requirement if the statement if true. Such a registrant need not file a termination report. A registrant not making such an indication on a registration statement would be subject to a filing requirement. Provide that this indication may be revoked and the registrant would then be subject to a filing requirement as of the date of revocation, or the date on which aggregate contributions, disbursements or obligations for the calendar year exceed $1,000, or the date on which the registrant accepts any contribution or contributions exceeding $100 from a single source during any calendar year, whichever is earlier.

Cumulative Contributions From an Individual Exceeding $100. Provide that if a campaign treasurer of a registrant receives a contribution in the form of money that is made by an individual who has made contributions to the registrant cumulatively within a calendar year exceeding $100 in amount or value, and the contributor has not provided to the treasurer his or her occupation and the name and address of his or her principal place of employment, the treasurer must obtain the information from the contributor before depositing the contribution in the campaign depository account. Provide that if the treasurer does not receive the information by the 5th day commencing after receipt of the contribution, the treasurer must return the contribution to the contributor.

O. Nonseverability

Provide that, if a court finds that all or any portion of the following provisions of the bill are unconstitutional, then all of these provisions would be void in their entirety: (a) defining a communication that is for a "political purpose"; (b) special interest committee reporting requirements; (c) prohibiting a committee from making a contribution to any other committee except a political party, personal campaign, or support committee (labor organizations are excluded from this prohibition); (d) supplemental WECF grants offsetting contributions to committees; and (e) supplemental WECF grants offsetting disbursements by committees.

If a court finds that any part of the provisions regarding supplemental WECF grants offsetting an opposing candidate's disbursements exceeding the applicable spending limits are unconstitutional, then the campaign finance provisions in their entirety would be void.

P. Initial Applicability

Provide that the treatment of the income tax check-off provisions, including the specification of the amount to be placed in the general account or in the account of an eligible political party under the WECF, first applies to income tax claims filed for taxable years beginning on January 1 of the year in which SS AB 1 takes effect, except that if SS AB 1 takes effect after July 31, the treatment first applies to claims filed for taxable years beginning on January 1 of the year following the year in which SS AB 1 takes effect.

Provide that the treatment of the spending limit cost-of-living adjustment provisions first applies to adjustments for the biennium beginning on January 1, 2004.

Further, provide that the treatment of all other provisions first apply to elections held on the day after publication of SS AB 1.

Conference Committee/Legislature: Adopt the following campaign finance provisions:

Provide $85,100 GPR and 2.0 GPR positions in 2002-03, to the Elections Board's general program operations appropriation. The provision would include 1.0 GPR campaign finance investigator position and 1.0 GPR auditor position. (See "Department of Revenue" for funding relating to income tax form modifications associated with campaign finance provisions.)

A. Public Funding of the Wisconsin Election Campaign Fund

Current Law. The Wisconsin Election Campaign Fund (WECF) is a segregated fund primarily supported through a voluntary $1 income tax check-off ($1 or $2 on joint returns) made by Wisconsin taxpayers that does not affect the amount of tax liability or tax refund. Since the check-off does not affect taxpayer liability, the amount generated from the check-off is transferred to the WECF from a sum sufficient GPR appropriation, currently estimated at $325,000 GPR annually. The amount of the transfer, plus any WECF balance, all investment earnings and any additional gifts or donations, are available for public campaign grants to eligible candidates for the offices of: (a) Governor; (b) Lieutenant Governor; (c) Attorney General; (d) Secretary of State; (e) State Treasurer; (f) Supreme Court Justice; (g) Superintendent of Public Instruction; (h) Senator; and (i) Representative.

WECF Income Tax Designation. Modify the existing WECF designation by: (a) limiting the designation to taxpayers who are full-year residents; and (b) increasing the amount of the designation to the lesser of $20 or the taxpayer's tax liability prior to making such a designation.

In the case of a joint return, allow each spouse to make a designation of the lesser of $20 or one-half of the couple's total tax liability prior to making a WECF designation. Create political party accounts for eligible political parties and a general account within the WECF, administered by the Elections Board. Require an individual making the designation to indicate whether it is to be placed in the general account for the potential use of all eligible candidates for eligible state offices or in the account of an eligible political party. Provide that, in the event that a taxpayer made a designation but failed to identify the intended account, the amount would be placed in the general account.

In addition, provide a campaign fund tax credit equal to the designation described above. Specify that certain administrative provisions that apply to other credits would also apply to the campaign fund tax credit. Provide that the credit would not be taken into account for purposes of determining the alternative minimum tax.

Require the Department of Revenue to: (a) ensure that space is provided on the face of the individual income tax return for a taxpayer to make the WECF designation and to claim the WECF credit; and (b) make both the designation and the credit claimable by checking one box. Also require the Department to state next to the box for the designation and credit that: (a) a designation will increase tax liability; (b) the amount designated may be claimed as a credit against taxes; and (c) by making the designation, the individual is also claiming the credit. In addition, require DOR to highlight in the instructions for the tax returns certain information submitted by the Elections Board about the purpose and effect of the WECF and of the WECF income tax designation (at no cost to the Board).

Change the current law requirement that DOR certify the total amount of designations made in the preceding fiscal year to a requirement that DOR certify the total amount of designations made on returns processed during the preceding fiscal year. Also require the Department to separately identify the amounts designated for the general account and for the account of each participating eligible political party. Specify that, if a taxpayer designated an amount greater than the authorized amount, the taxpayer would be deemed not to have made a designation. As under current law, the designation would also be considered void if the taxpayer attempted to place any additional conditions or restrictions upon it.

Provide that, in the case of an individual who does not make a designation and whose tax return is prepared by a paid tax preparer, the tax preparer would be required to present the taxpayer with a form (prepared by DOR with information on the purposes of the designation) to sign acknowledging the taxpayer's choice not to make the designation. No penalty for noncompliance by the tax preparer is provided.

Estimated Revenue From WECF Income Tax Designation Over Four-Year Election Cycle. In estimating the revenue under the modified WECF income tax designation provision, it is assumed that: (a) the same proportion of individuals with a tax liability currently making a $1 designation (adjusted to remove part-year residents and nonresidents) would continue to make

a designation; and (b) individuals making a WECF designation would always have a liability of at least $20 ($40 for a joint return). Based on these assumptions, a $20 designation over the four-year election cycle may generate an estimated $20.9 million in revenue ($5.2 million annually). Compared to current law, the $20 designation provision would result in an increase in transfers from the general fund to the WECF of approximately $4.9 million GPR annually.

B. Eligibility to Participate in the Wisconsin Election Campaign Fund

Political Parties Eligible for Placement on the Income Tax Form and for WECF Income Tax Designation Funds. An eligible political party means: (a) a party qualifying for a separate ballot or one or more separate columns or rows on a ballot for the period beginning on the date of the preceding general election and ending on the day before the general election that follows that election; or (b) a party qualifying for a separate ballot or one or more separate columns or rows on a ballot for the period beginning on the preceding June 1, or if that June 1 is in an odd-numbered year, the period beginning on June 1 of the preceding even-numbered year, and ending on May 31 of the 2nd year following that June 1.

Provide that the state chairperson of each eligible political party may, by written request to the Elections Board, provide for the establishment or discontinuance of an account within the WECF for that political party. Specify that each political party account consists of all monies designated by individuals for deposit in that account under the WECF income tax designation. Provide that if a political party for which an account is established ceases to be an eligible political party, the Elections Board must transfer the unencumbered balance of that account to the general account.

Require the Elections Board to annually certify to the Secretary of Revenue, no later than July 1, the name of each political party that qualifies as an eligible political party under either of the following two circumstances: (a) as of the preceding June 1 and whose state chairperson has filed a request to establish an account for the party; and (b) as of the date of the preceding general election. Provide that the Elections Board must specify the expiration date of any certification that is made. Further, provide that the Elections Board must provide the State Treasurer a list of eligible political parties that are authorized to use WECF grants for candidates.

Candidate Eligibility to Receive WECF Grants. Provide that for purposes of qualification for a grant from the general account, an "eligible candidate" would mean with respect to: (a) a spring election, any individual who: (1) is certified as a candidate in the spring election for Justice or State Superintendent of Public Instruction, or an individual who has been lawfully appointed and certified to replace such individual on the ballot; and (2) has otherwise qualified for a WECF grant; (b) a general election, an individual who: (1) receives at least 6% of the vote cast for all candidates on all ballots for any state office, except district attorney, for which the individual is a candidate at the September primary and who is certified as a candidate for that office in the general election, or an individual who has been lawfully appointed and certified to

replace such individual on the ballot; and (2) has otherwise qualified for a WECF grant; and (c) a special election, any individual who has satisfied the relevant elements for either the spring or general election, depending on the office.

Provide that an individual certified in the general election or a special election as the candidate of an eligible political party for a state office, other than district attorney, or an individual who has been lawfully appointed and certified to replace such an individual on the ballot at the general or a special election, qualifies for a grant from his or her political party account, provided that he or she otherwise qualifies for a grant under the WECF. Provide that such a candidate may receive a WECF grant only if the candidate receives at least 6% of the primary vote cast for all candidates on all ballots for the applicable office.

Specify that each candidate who files an application to receive a WECF grant, must file an affidavit with the Elections Board affirming that the candidate, and his or her authorized agents, have complied with the applicable spending limit (described under section C) for the office that he or she seeks, as well as all contribution limits, at all times during which these limitations have applied and will apply to his or her candidacy, unless the Board determines that: (a) the candidate is not eligible to receive a grant; (b) the candidate withdraws his or her application for a grant; (c) the candidate is opposed by a non-WECF candidate who received at least 6% of the vote cast for all candidates for the same office on all ballots at the September primary or a special partisan primary if a primary was held; or (d) the applicable spending limit is increased due to an opposing candidate's disbursements exceeding the applicable spending limit, or due to independent advocacy or covered communication disbursements, proposed disbursements and obligations against a WECF partisan candidate or for the WECF candidate's opponent exceeding 5% of the spending limit for the applicable office.

Require statewide candidates seeking WECF grants to raise 5% of the spending limit (described under section C), adjusted for cost-of-living, in contributions of $100 or less from state residents. Require Senate and Assembly candidates to raise 6% of the spending limit, adjusted for cost-of-living, in contributions of $100 or less from state residents. For a legislative candidate, provide that at least 45% of the qualifying amount must be raised from individuals who reside in a county having territory within the legislative district for which the candidate seeks office.

Provide that an eligible candidate who applies for a WECF grant may file a written withdrawal of the application with the Elections Board: (a) no later than the 8th day before the day of the primary in which the person withdrawing the application is a candidate; (b) in the case of a spring election, no later than the 8th day before the date that the primary would be held, if required; and (c) in the case of a partisan special election for which no primary is held for any party nomination, no later than the 35th day before the election. Under current law, an eligible candidate who applies for a WECF grant may file a written withdrawal of the application with the Elections Board no later than the 7th day after the day of the primary in

which the person withdrawing the application is a candidate or the 7th day after the date that the primary would be held, if required.

Provide that the Elections Board must certify to the State Treasurer the name of a candidate who the Elections Board determines is eligible to receive a grant within 24 hours after the candidate qualifies to receive such a grant.

C. Spending Limits for Wisconsin Election Campaign Fund Grant Recipients

Increase the statutory spending limits applicable to candidates accepting WECF grants as identified below.

WECF Spending Limits

Office	Current Law	Act 109
Governor	$1,078,200	$2,000,000
Lieutenant Governor	323,475	500,000
Attorney General	539,000	700,000
State Treasurer	215,625	250,000
Secretary of State	215,625	250,000
Superintendent	215,625	250,000
Justice	215,625	300,000
Senator	34,500	100,000
Representative	17,250	50,000

Provide that the dollar amounts of the spending limits be subject to a biennial adjustment to be determined by rule of the Elections Board. Specify that, in determining the adjustment, the Board is required to calculate the percentage difference between the consumer price index for the 12-month period ending on December 31 of the preceding year and the consumer price index for calendar year 2003. Define "consumer price index" to mean the average of the consumer price index over each 12-month period, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor. Beginning in 2006 and every two years thereafter, direct the Board to multiply the amount of each applicable statutory spending limit by the percentage difference in the consumer price indices. Direct the Board to add that product to the applicable statutory spending limit, round the sum to the nearest multiple of $5, and adjust the applicable spending limit amount to substitute the resulting amount. Specify that the new amount must be in effect as the applicable spending limit until a subsequent rule is promulgated. Specify that the determinations may be promulgated as an emergency rule without providing evidence that the emergency rule is necessary for the public peace, health, safety, or welfare, and without a finding of emergency.

Voluntary Spending Limits. Retain voluntary spending limitations for candidates who do not accept a grant from the WECF. Require the filing of an affidavit in order to be bound by the limitations.

Lifting Spending Limits for WECF Grant Candidates. Retain current law by providing that the spending limit for a WECF grant candidate is lifted if: (a) the WECF grant candidate at the spring election or a special nonpartisan election is opposed by one or more candidates in the election; (b) the WECF grant candidate at the general election or special partisan election is opposed by one or more candidates in the election who received at least 6% of the primary vote cast for all candidates for the same office on all ballots at the September primary or a special partisan primary if one was held; and (c) in either case, if any such opponent does not accept a WECF grant or does not voluntarily agree to comply with the applicable spending limit and with the personal contribution limitation to the candidate's own campaign.

Spending Limits as Affected by Supplemental Grants. Provide that the spending limit for a WECF grantee who receives supplemental grants (described under sections E and F) is increased by the amount of those grants.

D. Nonsupplemental Wisconsin Election Campaign Fund Grants

Provide that the maximum nonsupplemental WECF grant is 40% of the applicable spending limit for all qualifying candidates for Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, Superintendent of Public Instruction, Justice, Senator or Representative. Specify that the maximum nonsupplemental WECF grant for Governor is 35% of the applicable spending limit. Further provide that a WECF applicant is ineligible for a grant if: (a) the applicant had a balance in his or her account that equaled or exceeded 100% of the spending limit for the applicable office at the time of application; or (b) the general election applicant had no opponent who received at least 6% of the primary vote cast for all candidates on all ballots for the applicable office.

The following table identifies maximum nonsupplemental WECF grants under current law and under Act 109. (Beginning in 2006, these maximum nonsupplemental grant amounts may change due to cost-of-living adjustments made to the underlying spending limits for the various offices.)

Maximum Nonsupplemental WECF Grants

Office	Current Law	Act 109
Governor	$485,190	$700,000
Lieutenant Governor	145,564	200,000
Attorney General	242,550	280,000
State Treasurer	97,031	100,000
Secretary of State	97,031	100,000
Superintendent	97,031	100,000
Justice	97,031	120,000
Senator	15,525	40,000
Representative	7,763	20,000

Estimate of Four-Year Election Cycle Cost of Nonsupplemental WECF Grants. The estimate of WECF nonsupplemental grant costs over a four-year election cycle assumes that: (a) participation by statewide and Legislative candidates in the WECF initially reflect Election Board estimates of such participation under Senate Bill 104 (SB 104), except that it is estimated that only one candidate for Governor would participate due to the level of supplemental grant funds that could be available for such candidates; (b) based on discussions with the Elections Board that, currently, in approximately 10% of legislative races a WECF grantee has no opponent who received 6% of the primary vote cast for all candidates on all ballots for the applicable seat, legislative participation, therefore, in the WECF grant process would decrease 10% from participation estimates by the Elections Board for SB 104; (c) two candidates would participate in the WECF for each Superintendent of Public Instruction and Justice race anticipated in the four-year election cycle; and (d) each WECF grantee would receive the maximum possible nonsupplemental grant. It is estimated that the cost of the WECF nonsupplemental grants over the four-year election cycle (2003-04 through 2006-07) would be approximately $6.6 million.

E. Supplemental WECF Grant Matching an Opposing Candidate's Disbursements Exceeding the Statutory Spending Limit

Post-Reporting for Candidates Not Accepting Public Financing. Provide that any candidate or the candidate's personal campaign committee for Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Superintendent of Public Instruction, Justice, Senator or Representative not accepting a grant from the WECF, who incurs any obligation or makes any disbursement after accumulating cash in his or her campaign depository account or incurring obligations or making disbursements exceeding a combined total of 75% of the adjusted spending limit for the applicable office, must file: (a) weekly reports for each week, if any, beginning on the date the threshold is exceeded or the day after the primary (or the day after the primary would have been held), whichever is later; and (b) daily reports beginning on

the 30th day before the election through the day before the election. Specify that these reports be filed by electronic mail or facsimile transmission with: (a) the Elections Board; (b) each candidate whose name is certified to appear on the ballot for the office in connection with which the disbursement is made or incurred; and (c) the political party under whose name each such candidate appears on the ballot, if any. Further, specify that each report contain information pertaining to each disbursement made and obligation incurred by the candidate or committee and that obligations be listed separately from disbursements. Provide that within 24 hours after receiving a report, the Elections Board must notify (by telephone, electronic mail, facsimile transmission, or posting on the internet) each candidate whose name is certified to appear on the ballot for the office in connection with which the reported disbursement is made or obligation is incurred of the report.

Supplemental Grant From WECF Funds Disbursed to Political Parties for Partisan Candidates Representing Participating Eligible Political Parties. Provide that if a WECF partisan candidate, eligible to receive WECF supplemental grant funds from his or her political party, is opposed by one or more candidates who make disbursements exceeding the spending limit for the applicable office, adjusted for cost-of-living, the political party may make a supplemental grant to the WECF candidate in the amounts determined by the party, provided such supplemental grant does not exceed the total amount by which the opposing candidate's disbursements exceed the applicable spending limit, adjusted for cost-of-living, minus any supplemental contributions accepted by the WECF candidate to respond to such disbursements (supplemental contributions discussed under section I).

Supplemental Grant From General Account for Partisan Candidates Representing Ineligible or Nonparticipating Political Parties. Provide that if a WECF partisan candidate from an ineligible or nonparticipating political party is opposed by one or more candidates who make disbursements exceeding the spending limit for the applicable office, adjusted for cost-of-living, then upon application to the Board by the WECF partisan candidate, the Elections Board must make a supplemental grant from the supplemental grant reserve in the general account to the WECF candidate equal to the lesser of the following: (a) the amount of the applicable spending limit, adjusted for cost-of-living, minus any supplemental contributions accepted by the WECF candidate to respond to such disbursements; or (b) the total amount by which the opposing candidate's disbursements exceed the applicable spending limit, adjusted for cost-of-living, minus any supplemental contributions accepted by the WECF candidate to respond to such disbursements (supplemental contributions discussed under section I). Nonpartisan candidates (Justice and Superintendent of Public Instruction) would not be eligible for supplemental grants.

F. Supplemental WECF Grant Matching Independent Advocacy and Covered Communications by Committees

Registration and Reporting Requirements for Covered Communications. Define a "communication" to mean a message that is transmitted by means of a printed advertisement,

billboard, handbill, marked sample ballot, radio or television advertisement, mass electronic communication, mass telephoning, or mass mailing, or any medium that may be utilized for the purpose of disseminating or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors. Utilize the following definitions: (a) "mass electronic communication" means the transmission of 50 or more pieces of substantially identical material by means of electronic mail or facsimile transmission; (b) "mass mailing" means the distribution of 50 or more pieces of substantially identical material; and (c) "mass telephoning" means the making of 50 or more telephone calls conveying a substantially identical message.

Provide that a "communication" that is made during the period beginning on the 60th day preceding a general, special or spring election that includes a reference to or depiction of a clearly identified candidate who is certified to appear on the ballot at that election is an act for a "political purpose." Provide that individuals, committees and groups making such communications are subject to campaign finance registration and reporting requirements regardless of whether they are primarily organized for political purposes. Provide that a communication from corporations, cooperatives, voluntary associations or political party committees restricted solely to members generally is not a "communication" for purposes of the provision.

Statement of Legislative Intent Regarding Covered Communications. Provide the following statement of Legislative intent: "The Legislature finds a compelling justification for minimal disclosure of all communications that are to be made near the time of an election and that include a reference to or depiction of a clearly identified candidate at that election in order to permit increased funding for candidates who are affected by those communications. This minimal disclosure burden is outweighed by the need to establish an effective funding mechanism for affected candidates to effectively respond to communications that may impact an election."

30-Day Pre-Reporting of Independent Advocacy and Covered Communications. Require any special interest committee, other than a conduit, making any disbursement, or incurring any obligation for the purpose of independently advocating the election or defeat of a clearly identified candidate for statewide or legislative office during the primary, general, special or spring election, or for the purpose of independently making certain communications as defined above during the last 30 days prior to a general, special or spring election to: (a) pre-report the name of each candidate who will be supported or whose opponent will be opposed during this period; (b) pre-report the total amount of the disbursements to be made, and obligations to be incurred with regard to that candidate during this period; and (c) file the report no later than the 31st day prior to the election by electronic mail or facsimile transmission. Provide that no special interest committee subject to these provisions may make any disbursement or incur any obligation for the covered purposes during the period beginning on the 30th day preceding a general, special, or spring election and ending on the date of that election unless the committee has filed the required report. Specify that each report must be filed with: (a) the Elections

Board; (b) each candidate whose name is certified to appear on the ballot for the office in connection with which the communication is made; and (c) the political party under whose name each such candidate appears on the ballot, if any. Provide that within 24 hours after receiving a report, the Elections Board (by electronic mail, facsimile transmission, telephone or posting on the internet) must notify each candidate whose name is certified to appear on the ballot for the office in connection with which the communication is to be made of the report.

24-Hour Post-Reporting of Independent Advocacy and Covered Communications. Beginning 60 days prior to an election, require special interest committees other than conduits to provide 24-hour post-reporting of disbursements or obligations exceeding $250 cumulatively made for the purpose of: (a) independently advocating the election or defeat of a clearly identified candidate; or (b) independently making a communication as defined above. Provide that these reports must be filed with: (a) the Elections Board; (b) each candidate whose name is certified to appear on the ballot for the office in connection with which a reported obligation is incurred or disbursement is made; and (c) the political party under whose name each such candidate appears on the ballot, if any. Specify that the reporting form prescribed by the Elections Board provide a place for reporting obligations separately from disbursements. Further, specify that these reports be filed by electronic mail or facsimile transmission. Provide that within 24 hours after receiving a report, the Election Board (by electronic mail, facsimile transmission, telephone or posting on the Internet) must notify each candidate whose name is certified to appear on the ballot for the office in connection with which the reported disbursement is made.

Civil Forfeitures for 30-Day Pre-Reporting and 24-Hour Post-Reporting Violations. Specify that a violation of these reporting requirements by any committee may result in forfeiture of not more than $500 per day for each day of the continued violation. Further, provide that if an amount of a disbursement or obligation is misreported by more than 5%, the committee filing the report must forfeit the total amount of the actual disbursement or obligation.

Supplemental Grant From WECF Funds Disbursed to Political Parties for Partisan Candidates Representing Participating Eligible Political Parties. Provide that if the aggregate total of independent advocacy and covered communication disbursements, proposed disbursements, and obligations against a WECF partisan candidate or for the WECF candidate's opponent, exceeds 5% of the spending limit for the applicable office, adjusted for cost-of-living, an eligible political party receiving WECF funds for supplemental grants may make a supplemental grant to its WECF candidate in the amounts determined by the party, provided such supplemental grant does not exceed the total reported independent advocacy and covered communication disbursements and obligations, minus any supplemental contributions accepted by the WECF candidate to respond to such disbursements and obligations (supplemental contributions discussed under section I).

Supplemental Grant From General Account for Partisan Candidates Representing Ineligible or Nonparticipating Political Parties. Provide that if the aggregate total of independent advocacy and covered communication disbursements, proposed disbursements, and obligations against a

WECF partisan candidate representing an ineligible or nonparticipating political party or for the WECF candidate's opponent, exceeds 5% of the spending limit for the applicable office, adjusted for cost-of-living, then upon application to the Board by the WECF candidate, the Elections Board must make a supplemental grant from the supplemental grant reserve in the general account to the WECF candidate equal to the lesser of the following: (a) the amount of the spending limit for the applicable office, adjusted for cost-of-living, minus any supplemental contributions accepted by the WECF candidate to respond to such disbursements, proposed disbursements and obligations; or (b) the total amount by which such disbursements, proposed disbursements, and obligations exceed the spending limit for the applicable office, adjusted for cost-of-living, minus any supplemental contributions accepted by the WECF candidate to respond to such disbursements, proposed disbursements and obligations (supplemental contributions discussed under section I). Nonpartisan candidates (Justice and Superintendent of Public Instruction) would not be eligible for supplemental grants.

Exempting Certain State Office Independent Disbursements from the Financial Report Filing Requirement. Provide that any individual or committee who or which is required to file an oath for independent disbursements and who or which accepts contributions, makes disbursements or incurs obligations for the purpose of supporting or opposing one or more candidates for state office and who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of $1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source exceeding $100 in that year may indicate on its registration statement that the individual or committee will not accept contributions, incur obligations or make disbursements in the aggregate in excess of $1,000 in any calendar year and will not accept any contribution or contributions from a single source exceeding $100 in any calendar year. Any registrant making such an indication is not subject to any filing requirement, if the statement is true. Such a registrant is not required to file a termination report. Specify that a registrant not making an indication on a registration statement would be subject to a filing requirement. Provide that this indication may be revoked and the registrant would then be subject to a filing requirement as of the date of revocation, or the date on which aggregate contributions, disbursements or obligations for the calendar year exceed $1,000, or the date on which the registrant accepts any contribution or contributions exceeding $100 from a single source during any calendar year, whichever is earlier.

G. Grant Administration

Public Information. Provide that annually, no later than September 1, the Elections Board may notify the State Treasurer that an amount not exceeding 1% of the amount transferred to the WECF in that year be placed in a newly created public information account. Specify that the amount transferred for public information in any given year must be drawn from the general account and from each political party account in proportion to each account's share of income tax designations credited to the WECF in that year. Provide that public information be a first draw on all political party accounts and the general account.

Use of Public Information Funds. Public information funding must be used by the Elections Board for the purpose of providing public information concerning the purpose and effect of the WECF and of the WECF income tax designation. As a part of this program, require the Board to prepare an easily understood description of the purpose and effect of the WECF and of the WECF income tax designation. Further, provide that any amount placed in the public information account that is not expended by the Board in any year be retained in that account.

Political Party Accounts in the WECF. After the annual draw for public information, provide that the Elections Board disburse 55% of the remaining annual WECF income tax designation revenue in the respective political party accounts to the respective political parties for the purpose of funding: (a) supplemental grants matching an opposing candidate's disbursements exceeding the spending limits for the applicable office; and (b) supplemental grants matching independent advocacy and covered communications by committees. Further, provide that the Elections Board must certify to the State Treasurer that an eligible political party qualifies to receive a 55% disbursement for supplemental grants for an election whenever at least one eligible candidate of that party qualifies to receive a nonsupplemental grant for that election. Specify that each political party that receives a 55% disbursement for supplemental grants must maintain such funds in a segregated account. Specify that all monies in that account and any earnings on those monies may be used by the party only to make the above referenced supplemental grants to party candidates who qualify for a nonsupplemental grant. Require that within that account, the party must establish three subaccounts. Specify that the political parties reserve 45% of the disbursed funds in a subaccount for supplemental grants for Assembly races, 45% in a subaccount for Senate races and 10% in a subaccount for statewide races. Provide that a political party must maintain documentation for a period and in a form that is satisfactory to the Elections Board for the purpose of verifying that all monies in the account are used for an authorized purpose. Further, provide that a political party must promptly transfer to the Board the full amount of any unencumbered monies in the account if the political party ceases to be an eligible political party.

Provide that the remaining WECF revenue credited to a political party account in a given fiscal year remain in the political party account at the WECF to be administered by the Elections Board. Specify that such funds be used to provide nonsupplemental grants to qualifying party candidates. Require the following prioritization of the funds for nonsupplemental grants: (1) legislative races; (2) gubernatorial races; and (3) other statewide races. Further, require grant proration if funds are inadequate. Specify that if an eligible candidate representing an eligible political party is eligible to receive a grant from the general account, the State Treasurer must first make payment of the nonsupplemental grant from the political party account of that party, to the extent that sufficient monies are available in that account.

General Account. Provide that the second draw on general account funds, after public information, is nonsupplemental grants for Justice candidates.

Specify that the third draw on general account funds is nonsupplemental and supplemental grants to candidates for partisan state offices other than candidates of eligible political parties. Specify that prior to payment of any grants at an election for a partisan state office, the Elections Board must reserve an amount equal to the applicable spending limit, adjusted for cost-of-living, for the office sought by each eligible candidate other than a candidate who qualifies to receive a nonsupplemental WECF grant, to fund supplemental grants from the general account.

Provide that the fourth draw on general account funds is payments to the party accounts for nonsupplemental grants. If funds are insufficient in one or more WECF party accounts to fully fund nonsupplemental party account grants, available funds will be provided from the general account to provide increased nonsupplemental grants. Specify that these funds be provided to equalize, to the greatest extent possible, the nonsupplemental grants received by WECF partisan candidates from party accounts.

Specify that the final draw on general account funds is nonsupplemental grants for candidates for the Office of Superintendent of Public Instruction.

H. Aggregate Committee Funding of Partisan and Nonpartisan Candidates

Provide that the maximum amount a candidate for Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent of Public Instruction, Justice, Senator and Representative may receive from all committees, other than political party committees, is 40% of the applicable office spending limit adjusted for cost of living. Further provide that the maximum amount a candidate for Governor may receive from all committees, other than political party committees, is 35% of the applicable office spending limit adjusted for cost of living.

Provide that no candidate for state or local office may receive and accept more than 65% of the value of the spending limit for the applicable office, adjusted for cost-of-living, from all committees, including political party committees, except as follows: (a) any contributions received by a candidate intended to respond to an opposing candidate's disbursements exceeding the spending limit for the applicable office, to the extent that the contributions do not exceed the total amount by which the opposing candidate's disbursements exceed the spending limit for the applicable office; (b) special Assembly or Senate account contributions from a political party committee (discussed under section J) in an amount equivalent to the total amount by which the opposing candidate's disbursements exceed the spending limit for the applicable office; (c) any contributions received by a candidate intended to respond to independent advocacy or covered communication disbursements, proposed disbursements, or obligations by committees, provided that such disbursements or obligations exceed 5% of the spending limit for the applicable office, to the extent that the contributions do not exceed the combined total of all such actual and proposed disbursements and obligations reported; and (d) contributions from a political party committee paid out of the applicable special Assembly or

Senate account (discussed under section J) in an amount equivalent to the combined total of all independent advocacy and covered communication disbursements and obligations by committees that have been made or are proposed to be made against the candidate or in support of the candidate's opponent, provided that such disbursements or obligations exceed 5% of the spending limit for the applicable office. Further specify that this limit may be exceeded by a WECF partisan grant candidate accepting a supplemental grant matching an opposing candidate's disbursements exceeding the applicable spending limit or accepting a supplemental grant matching independent advocacy and covered communications by committees.

I. Individual and Single Committee Contribution Limits to Partisan and Nonpartisan Candidates

Individual and Single Committee Contribution Limits. Increase the current contribution limits for committees, other than political party committees, for all offices except Senator and Representative. Retain the current law individual contribution limits. The table below identifies the contribution limits for individuals and single committees, other than political party committees, under current law, and the revised limits for single committees under Act 109.

Limitation on Contributions

	Current Law		
Office	Individual	Committee	Act 109
Governor	$10,000	$43,128	$43,500
Lieutenant Governor	10,000	12,939	12,000
Attorney General	10,000	21,560	22,000
State Treasurer	10,000	8,625	8,650
Secretary of State	10,000	8,625	8,650
Superintendent	10,000	8,625	10,000
Justice	10,000	8,625	10,000
Senator	1,000	1,000	1,000
Representative	500	500	500

Provide that the dollar amounts of the individual and single committee contribution limits be subject to a biennial adjustment to be determined by rule of the Elections Board in accordance with these provisions. Specify that, in determining the adjustment, the Board is required to calculate the percentage difference between the consumer price index for the 12-month period ending on December 31 of the preceding year and the consumer price index for calendar year 2003. Define "consumer price index" to mean the average of the consumer price index over each 12-month period, all items, U.S. city average, as determined by the Bureau of

Labor Statistics of the U.S. Department of Labor. Beginning in 2006 and every two years thereafter, direct the Board to multiply the amount of each statutory contribution limit for each office by the percentage difference in the consumer price indices. Direct the Board to add that product to the applicable statutory contribution limit, round each sum to the nearest multiple of $5, and adjust the contribution limit to substitute the resulting amount. Specify that the new amount must be in effect as the applicable contribution limit until a subsequent rule is promulgated. Specify that the determinations may be promulgated as an emergency rule without providing evidence that the emergency rule is necessary for the public peace, health, safety, or welfare, and without a finding of emergency.

Halving Individual and Single Committee Contribution Limits. Provide that the contribution limits for legislative candidates be reduced by 50% for candidates who neither accept a WECF grant nor file an affidavit of voluntary compliance to abide by the spending limits for the applicable office. Halved limits apply retroactively commencing on the last date that grant applications may be filed. Provide that excess contributions raised prior to that date must be returned to the contributor or donated to the common school fund, to a charitable organization or to the WECF.

Supplemental Contributions -- Doubling Individual and Single Committee Contribution Limits for Candidates Subject to an Opposing Candidate's Disbursements Exceeding the Applicable Spending Limit. Provide that if a candidate makes disbursements exceeding the spending limit for the applicable office, adjusted for cost-of-living, then the contribution limits applicable to each opposing candidate, including halved contribution limits if applicable, are doubled. Further, provide that the general prohibition against a WECF candidate accepting a contribution from a committee, other than a political party committee, does not apply to any contributions intended to be used by the WECF candidate to respond to these disbursements provided that the contributions do not exceed the total amount by which the opposing candidate's disbursements exceed the spending limit for the applicable office, adjusted for cost-of-living.

Supplemental Contributions -- Doubling Individual and Single Committee Contribution Limits for Candidates Subject to Independent Advocacy and Covered Communications by Committees Exceeding 5% of the Spending Limit for an Applicable Office. Provide that if the aggregate total of independent advocacy and covered communication disbursements, proposed disbursements, and obligations by committees in any campaign against a candidate or for the candidate's opponent, exceeds 5% of the spending limit for the applicable office, adjusted for cost-of-living, then the contribution limits applicable to that candidate, including halved contribution limits if applicable, are doubled. Further, provide that the general prohibition against a WECF candidate accepting a contribution from a committee, other than a political party committee, does not apply to any contributions intended to be used by the WECF candidate to respond to these disbursements and obligations, provided that the contributions do not exceed the total reported independent advocacy and covered communication disbursements and obligations.

Overall Individual Contribution Limit. Retain the annual contribution limit for an individual to all candidates at $10,000 per calendar year, but provide that this limit is subject to a biennial cost-of-living adjustment beginning in 2006 utilizing the process identified above.

J. Political Party Funding of Partisan Candidates

Contributions to Political Parties. Increase from $150,000 to $450,000, the amount that political parties may receive from all committees in a biennium, excluding transfers between party committees of the same party. Provide that this limit be subject to a biennial cost-of-living adjustment beginning in 2006 utilizing the process identified under section I. As under current law, these amounts may be used by political parties to increase to up to 65% of the spending limit for the applicable office, the funds received by a candidate from all committees, including political party committees.

Special Party Accounts with Segregated Assembly and Senate Accounts. Specify that political parties may also receive an additional $450,000 per biennium in contributions from committees, conduits and individuals, excluding transfers between party committees of the same party, to be used exclusively to provide: (a) supplemental grants matching an opposing candidate's disbursements exceeding the applicable spending limit; (b) supplemental grants matching independent advocacy and covered communications by committees; and (c) up to 65% of the spending limit for the applicable office, the funds that a candidate may receive from all committees, including political party committees. Specify that this limit be subject to a biennial cost-of-living adjustment beginning in 2006 utilizing the process identified under section I. Provide that 50% of each contribution received be deposited to a segregated Assembly account for the benefit of Assembly candidates, and that 50% of each contribution received be deposited to a segregated Senate account for the benefit of Senate candidates. Provide that a political party may receive and accept a contribution transferred by a conduit to a special party account only if the original contributor designated that the contribution was made for the purpose of contributing to a special party account. Provide that single committee contribution limits to political parties do not apply to contributions made to special party accounts. Overall aggregate individual contribution limits of $10,000 per calendar year, however, would apply to contributions to special party accounts.

Single Committee Contribution Limits to Political Parties. Increase from $6,000 to $18,000 in a calendar year: (a) the maximum amount that a political party may receive from a committee or its subunits or affiliates, excluding transfers between party committees of the same party; and (b) the maximum amount that a committee, other than a political party committee, can contribute, directly or indirectly, to a political party. Specify that these limits be subject to a biennial cost-of-living adjustment beginning in 2006 utilizing the process identified under Section I.

K. Committee Contributions to Publicly-Financed Candidates

Generally, prohibit a candidate or personal campaign committee who or which applies for a grant from the WECF from accepting a contribution from a committee, other than a political party committee. Require candidates who apply for a grant to file a sworn statement that he or she has not accepted and retained any contributions from committees, other than political party committees, and that he or she will not accept such contributions unless he or she withdraws the application by the date that the pre-primary report is due or the candidate is determined to be ineligible for a grant. Require a candidate applying for a grant to return any contributions from committees, other than the political party committees, before filing an application for the grant.

Provide that if funds are insufficient to fully fund a WECF nonsupplemental grant due to proration, a WECF grant candidate may accept contributions from non-political party committees up to an amount which, when added to the actual WECF nonsupplemental grant received, equals the maximum nonsupplemental grant the candidate could have received.

L. Committee to Committee Contributions

Provide that generally no committee may make a contribution to any other committee unless it is a political party, personal campaign or support committee. However, provide that this prohibition does not apply to any contribution made by a committee to a bona fide affiliate of the committee, unless: (a) the committees are affiliated only by means of affiliation with a confederation of multiple labor organizations or multiple trade interests; or (b) either committee is a confederation of multiple labor organizations or multiple trade interests.

M. Contributions to Incumbents During Legislative Session

Provide that no person may make a contribution to an incumbent partisan state elective official or to the personal campaign committee or support committee of that official for the purpose of promoting that official's nomination or reelection to the office held by the official during the period beginning on the first Monday of January in each odd-numbered year and ending on the date of enactment of the biennial budget act.

Notwithstanding the above provision, provide that a person may make a contribution to an incumbent partisan state elective official against whom a recall petition has been filed during the period beginning on the date that the petition is filed and ending on the date of the recall election, unless the official resigns.

Generally, prohibit a member of the Legislature or his or her personal campaign committee from making or receiving any contribution in conjunction with a fundraising social event held in Dane County during a floorperiod or a special or extraordinary session if the event is held to benefit a member or member's personal campaign committee. Specify that the prohibition does not apply to a contribution made or received in connection with a fundraising social event that is held by a member of the Legislature or his or her personal campaign

committee during: (a) the period between the first day authorized for filing nomination papers for an office for which the member is a candidate and the date of the election for that office, if the event is held within the jurisdiction or district served by the office for which the member is a candidate; (b) the period between the first day authorized for filing nomination papers for any office other than member of the house of the Legislature in which a member serves and the date of the election for that office; and (c) a special or extraordinary session if the member serves a district that is wholly or partly contained within Dane County, the event is held within the boundaries of that district and invitations to the event are sent before the special or extraordinary session is called. Provide a forfeiture of up to $500 for each violation, and a fine of up to $1,000 and up to six months imprisonment, or both, for intentional violations.

N. Standard of Conduct for State or Local Public Officials Holding Elective Office

Provide that no state or local public official holding an elective office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person: (a) make or refrain from making a political contribution; or (b) provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to register under the campaign finance chapter, or any person making a communication that contains a reference to a clearly identified state or local public official holding an elective office or to a candidate for state or local public office. Specify that "clearly identified" when used in reference to a communication containing a reference to a person, means one of the following: (a) the person's name appears; (b) a photograph or drawing of the person appears; or (c) the identity of the person is apparent by unambiguous reference.

Provide that no complaint alleging a violation of the provision may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election. Specify that the statute of limitations (three years) is suspended for a complaint alleging a violation of this provision for the period during which a complaint may not be filed.

Further, provide that if the Ethics Board determines that a state public official violated the provision, the Ethics Board may order the official to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained. Specify that if the Ethics Board determines that a state public official has violated the provision and no political contribution, service or other thing of value was obtained, the Ethics Board may order the official to forfeit an amount equal to the maximum contribution authorized for individuals to make for the office held or sought by the official, whichever amount is greater. Identical forfeiture provision to a court to potentially impose on local public officials for violations of the above provision.

Specify that if the Ethics Board refuses or otherwise fails to authorize an investigation against a state official with respect to a violation of this provision within 30 days after receiving a verified complaint alleging a violation, the person making the complaint may bring an action to recover the forfeiture permitted under this provision in the name, and on behalf, of the state. In such actions, specify that the court may award actual and necessary costs of prosecution, including reasonable attorney fees, if the private party prevails, but any forfeiture recovered shall be paid to the state. Specify that if the court finds that the private party's action was frivolous, the court must award costs and fees to the defendant.

Provide that if a District Attorney refuses or otherwise fails to commence an action against a local public official within 30 days after receiving a verified complaint alleging a violation of this provision, the person making the complaint may bring an action to recover the forfeiture permitted under this provision in the name, and on behalf, of the state. In such actions, specify that the court may award actual and necessary costs of prosecution, including reasonable attorney fees, if the private party prevails, but any forfeiture recovered shall be paid to the state. Specify that if the court finds that the private party's action was frivolous, the court must award costs and fees to the defendant.

O. Reporting Requirements

Reporting Conduit Contributions. Require each registrant to maintain a separate schedule itemizing those contributions that were transferred to the registrant by a conduit, together with the name and address of the conduit, the date and amount of each transfer, and the cumulative total amount transferred to the registrant by the conduit for the calendar year.

Out-of-State Registrants. Require out-of-state registrants to report the same information concerning contributions, transfers, loans, disbursements, and obligations as in-state registrants. Under current law, out-of-state registrants report only such transactions involving Wisconsin sources or campaigns.

24-Hour Post-Reporting of Obligations. Require 24-hour post-reporting of independent disbursements and obligations exceeding $250 in the last 15 days prior to a primary or election made to advocate the election or defeat of a clearly identified candidate. Current law requires 24-hour post-reporting of independent disbursements exceeding $20 in the last 15 days prior to a primary or election made to advocate the election or defeat of a clearly identified candidate.

Referenda Reports. Require every individual or political group who accepts contributions, incurs obligations, or makes disbursements with respect to one or more referenda in a calendar year in an aggregate amount in excess of $100 to file a statement with the appropriate filing officer providing the information required under current law on a statement of registration. Under current law, this obligation is triggered when any individual or political group accepts

contributions, incurs obligations, or makes disbursements with respect to one or more referenda in a calendar year in an aggregate amount in excess of $25.

Candidate's Identity. Require a personal campaign committee to include in its statement of registration, the name of the candidate on whose behalf the committee was formed or intends to operate and the office or offices that the candidate seeks.

Phone, Fax or Email of a Candidate. Require a candidate or personal campaign committee of a candidate to include on the statement of registration, the telephone number or numbers and a facsimile transmission number or electronic mail address, if any, at which the candidate may be contacted.

Timely Reports. Specify that a report is timely filed only by delivering it to the appropriate filing office or agency by the due date or by depositing the report with the U.S. Postal Service no later than the third day before the due date. Current law provides that a report is timely filed only by delivering it to the appropriate filing office or agency by the due date or by depositing the report with the U.S. Postal Service no later than the due date.

Exempting Certain Local Office Independent Disbursements from the Financial Report Filing Requirement. Provide that any individual or committee who or which is required to file an oath for independent disbursements and who or which accepts contributions, makes disbursements or incurs obligations for the purpose of supporting or opposing one or more candidates for local office, but not for the purpose of supporting or opposing any candidate for state office, and who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of $100 in a calendar year may indicate on its registration statement that the individual or committee will not accept contributions, incur obligations or make disbursements in the aggregate in excess of $100 in any calendar year and will not accept any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding $100 in any calendar year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. Specify that such a registrant is not required to file a termination report. Specify that a registrant not making an indication on a registration statement would be subject to a filing requirement. Provide that this indication may be revoked and the registrant would then be subject to a filing requirement as of the date of revocation, or the date on which aggregate contributions, disbursements or obligations for the calendar year exceed $100, whichever is earlier.

P. Other Campaign Finance Provisions

Public Television and Public Access Channels. Provide that the Elections Board must promulgate rules requiring public access channel operators and licensees of public television stations in Wisconsin to provide a minimum amount of free time on public access channels and public television stations to state office candidates certified to appear on the ballot at general,

spring or special elections. Specify that these rules must require public access channel operators and licensees of public television stations to offer the same amount of time to each candidate for a particular state office, but may require different amounts of time to be offered to candidates for different offices. Provide that the Elections Board may promulgate these rules as emergency rules for the period before the effective date of the permanent rules. Specify that the Board is not required to provide evidence that promulgating these rules as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Nonseverability. Provide that if a court finds any part of the public broadcasting campaign finance provisions unconstitutional, all public broadcasting campaign finance provisions are void. Further, provide that if a court finds any other part of the campaign finance provisions unconstitutional, all campaign finance provisions other than the public broadcasting provisions are void.

Statewide Voter Registration List. Provide that the Elections Board must, as a part of its 2003-05 budget request, submit: (a) a proposal to finance the creation of a statewide, centralized voter registration list system; and (b) proposed legislation required to initially implement the voter registration system for the 2004 September primary election.

Specify that, in developing the system, the Board must consider at least each of the following issues: (a) how the list should be created and maintained; (b) the fiscal impact upon the state and local governments of maintaining the list; (c) how accuracy of the list should be ensured; (d) whether, to use the list, an electronic connection would need to be established between each polling place in the state and the Elections Board and how such a connection would be established and maintained; (e) how registrations on election day would be integrated into the list; (f) how procedures for corroboration of the identities of electors would be affected by maintenance of the list; (g) how absentee balloting would be affected by the creation of the list; (h) the impact of maintenance of the list upon transient populations, such as college students; (i) how the list could be accurately purged of the names of convicted felons who are ineligible to vote while ensuring that no eligible electors are disenfranchised; (j) how the list should be purged of the names of ineligible or inactive electors while ensuring that no eligible electors are disenfranchised; (k) whether the list should be publicly maintained or a private entity should be retained to maintain the list; (l) if a private entity were retained to maintain the list, the standards to which the entity should be held to account; and (m) whether and how provisional voting of challenged electors could be facilitated after the list is established.

Specify that the Elections Board must study and prepare specific recommendations for implementing the proposal for creation of a statewide voter registration list system. In conducting its study, provide that the Board must address each of the issues specified above. Further provide that the Board must submit the results of its study and recommendations to the Legislature no later than May 1, 2003.

Legislative Campaign Committees. Eliminate the special status of legislative campaign committees.

Declaratory Actions Relating to Certain Communications. Authorize any person who proposes to publish, disseminate or broadcast any communication, or any person who causes such publication, dissemination or broadcast, to commence a declaratory action to determine the application of the registration requirements under the campaign finance laws to that person.

Local Prosecutions. Authorize the District Attorney of any county which has territory within the jurisdiction or district within which a candidate seeks office to bring an action for violation of campaign finance laws alleged to have been committed by a candidate or personal campaign committee or agent of a candidate.

Declaratory Action to Determine Constitutionality of Campaign Finance Provisions. Direct the Attorney General to promptly commence an action seeking a declaratory judgment that the treatment of the campaign finance chapter by Act 109, including the provisions relating to independent expenditures, supplemental grants, adjustments made to contribution limits in response to independent expenditures, different individual and committee contribution limits and the committee to committee transfers, are constitutional. Direct the Attorney General to petition for leave to commence the action as an original action before the Wisconsin Supreme Court. If the petition is denied, direct the Attorney General to commence the action in the circuit court for Dane County. Provide that if the Attorney General fails to commence an action by the 61st day following the effective date of Act 109, the Joint Committee on Legislative Organization must, within 30 days thereafter, retain counsel for the purpose of commencing an action.

Donations to the Fund. Allow contributions that are currently required to be returned to the contributor or donated to local or state political parties, charitable organizations or to the common school fund, to also be transferred to the WECF.

Initial Applicability and Effective Dates. Provide that the WECF income tax designation provisions first apply to taxable years beginning on January 1, 2002. Specify that the first cost-of-living adjustments apply for the two year period beginning on January 1, 2006. Provide that the new reporting requirements for out-of-state registrants first apply with respect to reporting periods beginning on or after the effective date of Act 109. Provide that all other campaign finance provisions take effect July 1, 2003.

[Act 109 Sections: 1bc, 1bf, 1psb, 1psc, 1sb thru 1sw, 1tu thru 1ude, 1udh thru 1ugL, 2d, 23p, 25c thru 25x, 52gj, 79t, 170mj thru 170t, 519m, 9115(2v),(2w),(2x)&(2y), 9132(4v), 9215(3v), 9315(2v)&(2w), 9344(2v) and 9415(1zx)]

5. MOVE PRESIDENTIAL PREFERENCE PRIMARY TO DATE OF SPRING PRIMARY

Senate: Adopt the provisions of 2001 Assembly Bill 548, as amended by Senate Amendment 1. The major provisions of the bill, as amended, are as follows:

Changing Presidential Preference Primary Date. Change the date of the presidential preference primary from the date of the spring election, the first Tuesday in April, to the date of the spring primary, the third Tuesday in February. Amend the statutory definitions of "spring election" and "spring primary" to reflect this change. Specify that presidential preference primary candidates, in addition to nonpartisan candidates, may have their names placed on the official spring primary ballot under the proper office designation when a municipality consolidates ballots. Provide that dates associated with the process of determining names to be placed on the presidential preference primary ballot, and reporting the results of the ballot, be changed to reflect the date change for the presidential preference primary, specifically dates for: (a) having qualifying state chairpersons of state political parties certify to the Elections Board that the party will participate in the presidential preference primary; (b) the convening and work of the committee which certifies to the Elections Board the names of candidates to be placed on the presidential preference primary ballot; (c) deadlines for petition circulation and submittal to have a person's name appear on the presidential preference primary ballot; and (d) notifying each state party organization chairperson of the results of the presidential preference primary vote. Further provide that statutory provisions regarding election notices be amended to reflect the move of the presidential preference primary from the spring election to the spring primary.

Reimbursing Municipalities for Eligible Claims. Provide that any municipality that incurs costs in any year to hold the presidential preference primary in the municipality, or in any portion thereof, at one or more polling places where no other election is held concurrently with the presidential preference primary in that year may file a claim with the Elections Board for reimbursement of those costs. Specify that the claim must be accompanied by appropriate substantiation of any costs incurred and provide that the Board must audit the claim. Specify that if the Board finds that the costs would not have been incurred but for the requirement to hold the presidential preference primary on the 3rd Tuesday in February, the Board must reimburse the municipality for those costs. Provide that no claim is payable unless the claim is filed with the Board, together with appropriate substantiation, by April 30 following the presidential preference primary. Create a sum sufficient GPR appropriation under the Elections Board, the election-related cost reimbursement appropriation, to reimburse municipalities for allowable claims.

Effective Date. Specify that the provisions take effect on June 1, 2002.

Possible Fiscal Impact of Provision. Under the provision, the state would only reimburse a municipality for the costs of holding a spring primary, to the extent that these costs would not have been incurred but for the requirement to hold the presidential preference primary on the

date of the spring primary. If a Supreme Court Justice primary were held in a presidential election year, the state would incur little or no cost under the bill, since all polling places across the state would be open regardless of the presidential preference primary. It should be noted, however, that there are no Supreme Court races scheduled for either 2004 or 2008.

Further, there generally are not many spring primaries since: (a) some cities, towns and villages do not hold primaries; and (b) for the remaining cities, towns and villages there are many uncontested races and races with only two candidates. Assuming that all polling places would have been closed for the spring primary but for these provisions, the provisions could require approximately $962,000 for each presidential preference primary to reimburse municipalities for poll worker costs. Actual costs would likely vary from this estimate since it assumes that: (a) all polling places across the state would have been closed for the spring primary but for the requirements of the bill; (b) all polling places would be staffed with five poll workers; (c) the number of polling places has not increased since 1999; and (d) the average daily wage for poll workers has not increased since 1999.

In addition, assuming that all polling places would have been closed for the spring primary but for these provisions, the provisions could require approximately $91,000 for each presidential preference primary to reimburse municipalities for the postage costs of absentee ballots. Actual costs would likely vary from this estimate since it assumes that: (a) all polling places across the state would have been closed for the spring primary but for the requirements of the bill; (b) 40% of eligible voters would participate in a presidential preference primary held during the spring primary (Elections Board estimate of expected turnout); (c) based on the general election in 2000, 6% of participating voters would use an absentee ballot; and (d) the new postage rates would apply.

Finally, the provisions could also require the state to reimburse municipalities for costs associated with renting polling places, election day supplies, some ballot costs and other administrative/overhead costs attributable to complying with the bill. It should be noted that these provisions would commit the state to pay all municipal costs incurred regardless of the amount of those costs. These provisions would create a GPR sum sufficient appropriation under the Elections Board to cover the cost of reimbursing municipal claims.

Conference Committee/Legislature: Delete provision.

6. ELECTION LAW CHANGES

Senate: Adopt the provisions of Senate Substitute Amendment 1 to 2001 Assembly Bill 826. The major provisions of the bill, as amended, are as follows:

Processing of Ballots at Central Counting Locations. Provide that all proceedings at each central counting location may be placed under the direction of an election official, designated by the appropriate municipal or county clerk.

Absentee Voting in Nursing and Retirement Homes and Certain Community-Based Residential Facilities. Specify that special voting deputies must witness the absentee ballot certification for absentee ballot voting for the election for nursing home, qualified retirement home and qualified community-based residential facility residents. When the absentee ballot certification is executed before two special voting deputies, require both deputies to witness and sign the absentee ballot certification. Further, provide that no individual other than a special voting deputy may witness the absentee ballot certification under these circumstances.

Permitting High School Students to Serve as Election Inspectors. Provide that a pupil who is 16 or 17 years of age, who is enrolled in grades 9 to 12 in a public or private school, and who has at least a 3.0 grade point average or the equivalent may serve as an inspector at the polling place serving the pupil's residence, with the approval of the pupil's parent or guardian and of the principal of the school in which the pupil is enrolled. Specify that a pupil may serve as an inspector at a polling place only if at least one election official at the polling place other than the chief inspector is a qualified elector of Wisconsin. Provide that no pupil may serve as a chief inspector under these provisions. Specify that before appointment by any municipality of a pupil as inspector under these provisions, the municipal clerk must obtain written authorization from the pupil's parent or guardian and from the principal of the school where the pupil is enrolled for the pupil to serve for the entire term for which he or she is appointed. Provide that upon appointment of a pupil to serve as an inspector, the municipal clerk must notify the principal of the school where the student is enrolled of the date of expiration of the pupil's term of office. Specify that a principal must promptly notify the municipal clerk or the board of election commissioners of the municipality that appointed the child as an election official if the child ceases to be enrolled in school or if the child no longer has at least a 3.0 grade point average or the equivalent. Specify that a principal must allow a child to take examinations and complete coursework missed during the child's absences. Provide that a pupil appointed as an election inspector under these provisions may not challenge a person's right to vote.

Volunteer Services. Provide that any election official or trainee may choose to volunteer his or her services by filing with the municipal clerk of the municipality in which he or she serves a written declination to accept compensation. Specify that the volunteer status of the election official or trainee remains effective until the official or trainee files a written revocation with the municipal clerk.

Election Manuals. Eliminate the current law requirement that election manuals must be furnished by the Elections Board free to each county and municipal clerk or board of election commissioners and others in such manner as it deems most likely to promote the public

welfare. Election manuals explain the duties of election officials, together with notes and references to the statutes as the Elections Board considers advisable.

Election Laws. Eliminate the current law requirement that the Elections Board must furnish the election laws free to each county and municipal clerk and board of election commissioners in sufficient supply to provide one copy for reference at each office and at each polling place. Include county and municipal clerks and boards of election commissioners as groups to whom the Elections Board is required to sell or distribute copies of election laws.

Campaign Finance Publications. Eliminate the current requirement that the Elections Board must furnish a copy of a manual on recommended uniform methods of bookkeeping without charge, upon request, to all persons who are required to file reports or statements with the Board, and must distribute or arrange for the distribution of copies of the manual for use by other filing officers. Eliminate the additional current requirement that the Elections Board must furnish a copy of a manual on major campaign finance and prohibited election practices provisions without charge, upon request, to all persons who are required to file reports or statements with the Board, and must distribute or arrange for the distribution of copies of the manual for use by other filing officers.

District Maps. Specify that the Elections Board distribute, upon request and free of charge, a copy of the map or maps received from the Legislative Reference Bureau showing district boundaries to any candidate for representative in Congress, state Senator, or Representative to the Assembly. Under current law, the Board is required to provide these maps to these candidates upon: (a) filing of nomination papers; (b) appointment; or (c) appointment or nomination by write-in vote.

Election Inspectors. Provide that each election inspector must generally be a qualified elector of the ward or wards, or the election district, for which the polling place is established. Current law requires that each election inspector must generally be a qualified elector in the ward for which the polling place is established.

Chief Inspectors. Specify that prior to the first election following the appointment of the election inspectors and whenever wards are combined or separated, the municipal clerk must appoint one of the inspectors to serve as chief inspector at every affected polling place. Provide that the municipal clerk may remove a chief inspector. Under current law, the inspectors at each polling place, not the municipal clerk, elect one of their number to serve as chief inspector under these circumstances.

Petitions and Nomination Papers for September Primary. Provide that a circulator of petitions and nomination papers for the September primary must indicate the date that he or she makes the required certification next to his or her signature. Under current law, a circulator must certify to a number of statements in regards to the collection of signatures on petitions and nomination papers.

Declaration of Candidacy. Specify that each candidate for state and local office must include in the declaration of candidacy a statement that he or she has not been convicted of any misdemeanor designated under state or federal law as a violation of the public trust or any felony for which he or she had not been pardoned. The provision would amend current law, which provides that each candidate for state and local office must include in the declaration of candidacy a statement that he or she has not been convicted of any infamous crime for which he or she has not been pardoned and a list of all felony convictions for which he or she has not been pardoned.

Recall Petitions. Amend petition notarization requirements regarding counting individual signatures. Eliminate notarization and oath administration provisions under current law regarding: (a) counting of any signatures on petition sheets; (b) dates of administering oaths in relationship to the dates of signatures; and (c) the filing of affidavits correcting insufficiencies.

Municipal Clerk Certification of Municipal Candidates. Extend from 2 days to 3 days after the filing deadline for nomination papers for certain municipal elections, the time in which a municipal clerk of each municipality in which voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used must certify the list of candidates for municipal office to the county clerk if a primary is required, unless the municipality prepares its own ballots. Extend from 2 days to 3 days after municipal canvasses of the primary vote or qualification of candidates in municipal caucuses for certain municipal elections, the time for the municipal clerk of each municipality in which voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used to certify the list of candidates for municipal office and municipal referenda appearing on the ballot to the county clerk, unless the municipality prepares its own ballots.

Notifying Municipal Judge Filing Officers. Provide that upon entering into or discontinuing an agreement to jointly operate a municipal court, the contracting municipalities must each transmit a certified copy of the ordinance or bylaw effecting or discontinuing the agreement to the county clerk or board of election commissioners which is serving as the filing officer for each candidate for municipal judge. Under current law, the contracting municipalities must notify the county clerk or board of election commissioners only when the joint court is created.

Effective Date. Provide that the election law change provisions take effect May 31, 2002.

Conference Committee/Legislature: Include Senate provisions but provide that these provisions take effect on the effective date of the bill.

[Act 109 Sections: 1bg, 1pc thru 1pr, 1pt thru 1rx, 1tc thru 1tr, 1udf, 1udg, 274h thru 274L, 280p and 512f]

ELECTRONIC GOVERNMENT

1. PROGRAM REVENUE LAPSES [LFB Paper 1121]

	Governor/Leg.	Veto (Chg. to Leg.)	Net Change
GPR-REV	$7,411,800	- $1,250,000	$6,161,800
PR-Lapse	7,411,800	- 1,250,000	6,161,800

Governor: Lapse a total of $3,051,900 in 2001-02 and $4,359,900 in 2002-03 to the general fund from the following PR appropriations.

	2001-02	2002-03
Untitled Appropriation [s. 20.530(1)(g)]	$2,176,900	$3,109,900
Telecommunications Services	875,000	1,250,000
Total	$3,051,900	$4,359,900

Senate/Legislature: Include the provision, but as a result of the elimination of the Department and the transfer of its powers and duties to DOA under Item #2, require DOA rather than DEG to lapse the amount identified for telecommunications services in 2002-03 and require that DEG lapse from its s. 20.530(1)(g) appropriation in 2001-02 the total required amount from the appropriation for the biennium ($5,286,800).

Veto by Governor [E-14]: Delete the requirement that $1,250,000 be lapsed from the telecommunications services appropriation in 2002-03. The Governor's partial veto deletes from a nonstatutory schedule of required state agency appropriations lapses a $125,000 lapse in 2002-03 from DOA's materials and services to state agencies appropriation [s. 20.505(1)(ka)], deletes reference to a lapse requirement from the adjacent s. 20.505(1)(ke) telecommunications services appropriation in the same nonstatutory schedule and deletes reference to a $0 lapse requirement in 2001-02 attributable to the same partially vetoed s. 20.505(1)(ke) appropriation. The $1,250,000 lapse requirement amount in 2002-03 in the nonstatutory schedule that was attributable to the partially vetoed s. 20.505(1)(ke) appropriation is retained. The effect of these partial vetoes is to newly require that a $1,250,000 lapse in 2002-03 occur from DOA's s. 20.505(1)(ka) materials and services to state agencies appropriation rather than from the vetoed s. 20.505(1)(ke) telecommunications services appropriation. The fiscal effect of deleting the 2002-03 lapse requirement for the telecommunications services appropriation is reflected under

this entry. The fiscal effect of substituting a $1,250,000 lapse in 2002-03 for the original $125,000 lapse in 2002-03 from DOA's s. 20.505(1)(ka) materials and services to state agencies appropriation is shown under Administration, Item #8.

[Act 109 Sections: 9259(1)&(9r)]

[Act 109 Vetoed Sections: 9159(5t) and 9259(1)(as it relates to s. 20.505(1)(ka)&(ke)) and 9259(9r)]

2. ELIMINATE DEPARTMENT OF ELECTRONIC GOVERNMENT

	Legislature		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	- $132,235,800	- 230.30	$132,235,800	230.30	$0	0.00

Senate/Legislature: Eliminate the Department of Electronic Government (DEG), created in 2001 Wisconsin Act 16, and transfer the duties, responsibilities, funding and positions of DEG to the Department of Administration, effective July 1, 2002. Create a Division of Electronic Government in DOA. Delete $132,235,800 PR and 230.3 positions in 2002-03 in DEG, and provide $131,723,500 PR and 225.3 PR positions in DOA. As a result of the transfer, $512,300 PR and 5.0 unclassified PR positions in 2002-03 associated with the DEG Secretary (the state's chief information officer), the deputy secretary, an executive assistant and two unclassified division administrators created in Act 16 would be deleted. (See "Administration.")

The Department of Electronic Government was created in 2001 Wisconsin Act 16 to manage and oversee information technology and telecommunications activities of state agencies and to assist state agencies with information technology issues. Resources for the new Department were provided by transferring the funding and staffing associated with two information technology related divisions in the Department of Administration. Under Act 16, total funding for the Department of Electronic Government is $132,195,900 PR in 2001-02 and $132,235,800 PR in 2002-03 with 230.3 PR positions annually. DEG's program revenue funding is generated primarily from charges for the utilization of the state's computer utility and telecommunication services. In addition, DEG provides: (a) computer network services for the state District Attorneys supported from penalty assessments, federal Byrne grant funding and justice information system fees; (b) data network services to schools under the TEACH program funded from charges to schools; and (c) telecommunications relay services for the hearing impaired funded from surcharges to telecommunications providers.

Veto by Governor [E-14]: Delete provision. As a result, DEG remains a separate agency. Since the total of the appropriations that would have been created for the new DOA Division of Electronic Government was $512,300 and 5.0 unclassified positions less in 2002-03 that the total

of the appropriations restored to DEG by the Governor's partial veto, the Governor's veto message indicates that the Secretary of DEG would be directed to reduce spending by $512,300 in 2002-03 "to replace the savings that would have occurred if the Department had been eliminated."

[Act 109 Vetoed Sections: 7n, 9m, 9n, 10m, 10p, 11n, 13m, 13p, 14b, 14g thru 14i, 17s, 20n, 20p, 20q, 20r, 20sc thru 20tm, 20ts thru 20uL, 23c thru 23m, 23no, 26 (as it relates to s. 20.505(1)(is), (it),(kg),(kL)&(kr)), 30e, 32nx thru 32om, 44b thru 44ce, 50m, 52h thru 52Ldb, 69m, 72fb thru 72fzn, 84m, 93m, 100nvm, 100nw, 100ok, 100ox, 258y, 346r, 346rh, 346rs, 353m, 362m, 362p, 369p, 512m, 9159(5t), 9201(7q), 9259(1) (as it relates to s.20.505(1)(ka)&(ke)), 9259(9r) and 9459(3q)]

3. UNIFORM ELECTRONIC TRANSACTIONS ACT

Governor: Adopt a version of the Uniform Electronic Transaction Act (UETA) and specify the following:

Definitions. Create the following definitions: (a) agreement; (b) automated transaction (a transaction conducted or performed, in whole or in part, by electronic means or by the use of electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction); (c) computer program; (d) contract; (e) electronic (relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities); (f) electronic agent (a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual); (g) electronic record (a record that is created, generated, sent, communicated, received, or stored by electronic means); (h) electronic signature (an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record); (i) governmental unit (defined as an agency, department, board, commission, office, authority, institution, or instrumentality of the federal government or of a state or of a political subdivision of a state or special purpose district within a state, regardless of the branch or branches of government in which it is located; a political subdivision of a state or special purpose district within a state; an association or society to which appropriations are made by law; any body within one or more of the entities specified previously that is created or authorized to be created by the constitution, by law, or by action of one or more of the entities previously specified; or any combination of any of the entities specified as a governmental unit); (j) information; (k) information processing system; (l) record (information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form); (m) security procedure; (n) state (a state of the United States, the District of Columbia, Puerto Rico, the U. S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States, including an Indian tribe or

band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state); and (o) transaction (an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs).

Applicability. Specify that the provisions apply to electronic records and electronic signatures relating to a transaction. Specify that: (a) a transaction subject to the UETA is also subject to other applicable substantive law; and (b) the UETA applies to the State unless expressly provided.

Exempt Records and Transactions. Specify that the provisions do not generally apply to a transaction to the extent that it is governed by either any law governing the execution of wills or the creation of testamentary trusts, or the Uniform Commercial Code (other than the waiver or renunciation of claim or right after breach and the statute of frauds for kinds of personal property).

Specify that the provision does not apply to any of the following records or any transaction evidenced by any of the following records: (a) deeds; (b) records governed by any law relating to adoption, divorce, or other matters of family law; (c) notices provided by a court; (d) court orders or judgments; (e) official court documents (including briefs, pleadings, affidavits, memorandum decisions and other writings that must be executed in connection with a court proceeding); (f) records required by law to accompany the transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials; (g) notice of cancellation or termination of any utility services; (h) notices of default, acceleration, repossession, foreclosure or eviction for a primary residence of an individual; (i) notices of cancellation or termination of health insurance or benefits or of life insurance; and (j) notices of recall of a product, or the failure of a product that risks endangering health or safety.

Exemption from Preemption by Federal Law. Include language required by the federal Electronic Signatures in Global and National Commerce Act that authorizes a state to modify, limit or supersede compliance with the federal Act if the state either: (a) adopts the Uniform Electronic Transactions Act; or (b) specifies alternative procedures or requirements for the use and acceptance of electronic records and signatures. In the latter case, a state's alternative procedures or requirements must be consistent with those specified under the federal Act, must not require or accord greater legal status or effect to a specific technology or technical specification for handling electronic signatures and must acknowledge the federal Act.

Use of Electronic Records and Signatures. Specify that the provisions do not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form. The provisions apply only to transactions between parties each of which has agreed to conduct transactions by electronic means. Specify that whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct. Specify that a party that agrees to conduct a transaction by electronic means may refuse to

conduct other transactions by electronic means and that the right granted by the provisions may not be waived by agreement.

Statutory Construction of the Provisions Governing Electronic Transactions. Specify that the provisions be construed and applied: (a) to facilitate electronic transactions consistent with other applicable law; (b) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and (c) to effectuate its general purpose to make uniform the law with respect to electronic transactions among states enacting laws substantially similar to the Uniform Electronic Transactions Act as approved and recommended by the National Conference of Commissioners on Uniform State Laws in 1999.

Legal Recognition of Electronic Records. Require that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form and that a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation. Specify that if a law requires a record to be in writing, an electronic record satisfies that requirement in that law and if a law requires a signature, an electronic signature satisfies that requirement in that law.

Provision of Information in Writing. Require that if parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, a party may satisfy the requirement with respect to that transaction if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt. Specify that an electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

Presentation of Records. Require that if another law requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, then: (a) the record must be posted or displayed in the manner specified in the other law; (b) the record shall be sent, communicated, or transmitted by the method specified in the other law; and (c) the record must contain the information formatted in the manner specified in the other law. Specify that if a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

Specify that in regard to providing information in writing and presenting records, the requirements may not be varied by agreement, but: (a) to the extent another law requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement that the information be in the form of an electronic record capable of retention may also be varied by agreement; and (b) a requirement under another law to send, communicate, or transmit a record by 1st-class or regular mail or with postage prepaid may be varied by agreement to the extent permitted by the other law.

Attribution and Effect of Electronic Records. Create provisions related to the attribution and effect of electronic records and electronic signatures. Specify procedures related to a change or error in an electronic record in a transmission between parties to a transaction for: (a) parties that agreed to use security procedures to detect changes or errors and only one party has conformed to the procedure; or (b) individuals. For all other parties, specify that the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any. Specify that procedures related to changes or error for individuals and for parties other than those that agreed to use security procedures may not be varied by agreement.

Notarization and Acknowledgement. Specify that if a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if, consistent with any applicable administrative rules promulgated by the Department of Electronic Government (DEG) and the Secretary of State, the electronic signature of the person authorized to administer the oath or to make the notarization, acknowledgment, or verification, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Retention of Records. Specify that if a law requires that a record be retained, the requirement is satisfied by retaining the information set forth in the record as an electronic record which: (a) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and (b) remains accessible for later reference. The provision specifies that a requirement to retain a record does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received. Specify that if a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, a person may comply with that law by using an electronic record that is retained in accordance with provisions. Specify that if a law requires retention of a check, that requirement is satisfied by retention of an electronic record containing the information on the front and back of the check in accordance with the provisions. Specify that a record retained as an electronic record satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of the provision, specifically prohibits the use of an electronic record for the specified purpose.

Under these provisions, a governmental unit that has custody of a record is also subject, as appropriate, to the separate record retention requirements for public records of state agencies, the requirements for the retention of records for the UW Hospitals and Clinics or the records retention requirements established for local units of government. Authorize the state Public Records Board to promulgate standards consistent with the requirements of the UETA.

Specify that these provisions do not precluded the Public Records Board, DEG or any other governmental unit from specifying additional requirements for the retention of any record of another governmental unit subject to its jurisdiction.

Admissibility of Records in Evidence. Specify that in a proceeding, a record or signature may not be excluded as evidence solely because it is in electronic form.

Automated Transactions, Sending and Receipt of Records and Transferable Records. Create provisions related to the formation of contracts by interaction of electronic agents, specifying what constitutes sending and receipt of an electronic record, the timing and place of sending and receiving an electronic record and the transfer and transferability of electronic records.

Agency Rules. Delete the responsibility for the Department of Financial Institutions to promulgate rules related to electronic forms and electronic signatures for records submitted to a governmental unit. Specify that unless otherwise provided by law, with the consent of a governmental unit in Wisconsin that is to receive a record, any record that is required by law to be submitted in writing to that governmental unit and that requires a written signature may be submitted as an electronic record, and if submitted as an electronic record may incorporate an electronic signature.

Require DEG to promulgate rules concerning the use of electronic records and electronic signatures by governmental units, which will govern the use of electronic records or signatures by governmental units, unless otherwise provided by law. Specify that the rules must include standards regarding the receipt of electronic records or electronic signatures that promote consistency and interoperability with other standards adopted by other governmental units in Wisconsin and other states and the federal government and nongovernmental persons interacting with Wisconsin governmental units. Specify that any standards adopted may include alternative provisions, if warranted, to meet particular applications. Create a nonstatutory provision, specifying that DEG may promulgate these rules as emergency rules before the effective date of the permanent rules. DEG is not first required to provide evidence that promulgating such emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Require DEG and the Secretary of State to jointly promulgate rules establishing a method for attaching or associating an electronic signature with a notarized record. DEG and the Secretary of State must also jointly promulgate rules establishing the requirements that a notary public must satisfy in order to use an electronic signature for any attestation that is not notarized. Specify that these joint rules be numbered as rules of each agency in the Wisconsin Administrative Code. Create a nonstatutory provision, specifying that DEG and the Secretary of State may promulgate these rules as emergency rules before the effective date of the permanent rules. The agencies are not first required to provide evidence that promulgating such emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and are not required to provide a finding of emergency. Specify that the permanent rules must be promulgated so that they become effective no later than January 1, 2004.

Miscellaneous Provisions. Exclude records governed by the electronic transaction and records provisions from current law provisions related to photographic copies of business records as evidence and the admissibility of duplicates.

Initial Applicability. Specify that provisions related to electronic transactions and records first apply to electronic records or electronic signatures that are created, generated, sent, communicated, received, or initially stored on the effective date of the provision.

Joint Finance/Legislature: Provision deleted as non-fiscal policy item.

EMPLOYEE TRUST FUNDS

1. PRIVATE EMPLOYER HEALTH CARE COVERAGE PROGRAM BUDGET REDUCTION

GPR	- $6,000

Governor/Legislature: Reduce the general operations appropriation for the Private Employer Health Care Coverage Program by $6,000 in 2001-02. The program is appropriated $211,100 in 2001-02 in a biennial appropriation. The reduction represents 2.8% of the appropriation in 2001-02.

[Act 109 Section: 9216(1)]

2. SUSPENSION OF STATE CONTRIBUTIONS TO FUND SICK LEAVE CONVERSION CREDIT PROGRAMS

	Jt. Finance	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$37,643,200	- $5,377,600	$32,265,600
GPR-REV	$34,069,900	- $5,361,800	$28,708,100

Joint Finance: Suspend state employer payroll contributions for both the accumulated sick leave conversion credit program and the supplemental health insurance conversion credit program for those payrolls paid between May 1, 2002, and June 30, 2003. Currently, state agencies budget 1.7% of payroll to fund the accumulated sick leave conversion credit program and 1.0% of payroll to fund the supplemental health insurance conversion credit program. Lapse all non-FED fringe benefits amounts budgeted for these contributions to the general fund.

As a result of this suspension of state contributions, estimate increased GPR-Lapse amounts of $5,377,600 in 2001-02 and $32,265,600 in 2002-03 and increased GPR-Earned

amounts of $4,867,100 in 2001-02 and $29,202,800 in 2002-03. This provision affects state employer payroll contributions only. It does not affect any of the employee benefits provided under these programs.

Senate: Exempt ETF and the State of Wisconsin Investment Board from the payment suspension and lapse requirements. (These agencies are funded from earnings derived from the Public Employee Trust Fund.) Decrease GPR-Earned collections by $83,100 in 2001-02 and by $494,700 in 2002-03.

Conference Committee/Legislature: Include Senate provision, but clarify that the provision would first apply to state contributions on payrolls paid between July 1, 2002, and June 30, 2003. As a result of the delay in the commencement of the suspension of state contributions, decrease GPR-Earned collections by a total of $4,867,100 in 2001-02 and GPR-Lapse amounts by a total of $5,377,600 in 2001-02. [The continued exemption of ETF and the State of Wisconsin Investment Board from the payment suspension for 2002-03 only would further decrease GPR-Earned collections in that year by $494,700, for a total biennial decrease in GPR-Earned collections of $5,361,700.]

[Act 109 Section: 9159(3x)]

3. ANNUAL ACCRUAL OF SICK LEAVE FOR THE ACCUMULATED SICK LEAVE CONVERSION CREDIT PROGRAMS

Assembly: Effective January 1, 2003, provide that the maximum annual amount of unused sick leave that a state employees may accumulate for purposes of the accumulated sick leave conversion credit program and for calculations under the supplemental health insurance credit program would be 97.5 hours per year, rather than the current 130 hours per year. Effective January 1, 2003, for faculty and academic staff personnel, provide that the maximum annual amount of unused sick leave that could be accumulated would be 51 hours per year, rather than the current 68 hours per year, for personnel appointed to work 52 weeks and would be 38.4 hours per year, rather than the current 51.2 hours per year, for personnel appointed to work 39 weeks. Specify that for state employees included in a collective bargaining agreement for which a representative is recognized or certified, this provision would apply unless otherwise provided in the collective bargaining agreement. Any reduced costs to the state as employer would not be realized until contribution rates for these programs are established for the 2004 calendar year.

Senate/Legislature: Delete provision.

4. REQUIRED MINIMUM MONTHLY CONTRIBUTION BY STATE EMPLOYEES TO GROUP HEALTH INSURANCE PREMIUMS

Assembly: Effective January 1, 2003, require state employees insured under the state group health insurance program to contribute a minimum of $10 per month for single contract coverage and $20 per month for family contract coverage (and the net balance of any other employee-required contribution) under the current state group health insurance premium contribution formula. Stipulate that this provision would be a prohibited subject of bargaining for the state as employer and specify that the minimum monthly premium contribution change would first apply to employees who are affected by a collective bargaining agreement that contains inconsistent provisions on the day on which the collective bargaining agreement expires, or is extended, modified, or renewed, whichever first occurs. Lapse all budgeted non-FED fringe benefits savings to the general fund. Estimate increased GPR-Lapse amounts of $1,326,700 in 2002-03 and increased GPR-Earned receipts of $1,200,800 in 2002-03.

Under current law, the state contributes an amount equal to 90% of the monthly premium cost of the Standard Plan or 105% of the premium cost of the lowest cost alternative health care plan (but not more than the total amount of the remaining premium), whichever contribution amount is less.

Senate/Legislature: Delete provision.

5. STATE GROUP HEALTH INSURANCE PREMIUM PAYMENTS FOR CERTAIN PART-TIME STATE EMPLOYEES

Assembly: Specify that for permanent or project state employees with appointments between 0.50 FTE and 0.74 FTE, who are participants under the Wisconsin Retirement System, the state would contribute one-half of the normal state contribution for a full-time employee, commencing January 1, 2003, and the employee would contribute the remainder. Lapse all budgeted non-FED fringe benefits savings to the general fund. Estimate increased GPR-Lapse amounts of $3,854,200 in 2002-03 and increased GPR-Earned receipts of $3,488,300 in 2002-03.

Stipulate that this modification would be a prohibited subject of bargaining for the state as employer and specify that the premium payment change would first apply to employees who are affected by a collective bargaining agreement that contains inconsistent provisions on the day on which the collective bargaining agreement expires, or is extended, modified, or renewed, whichever first occurs.

Currently, if an employee is at least half-time, the employee is deemed full-time for premium contribution purposes, and the state pays the premium cost of group health insurance coverage based on the current contribution formula (an amount equal to 90% of the monthly premium cost of the Standard Plan or 105% of the premium cost of the lowest cost alternative

health care plan, whichever contribution amount is less). It is estimated that 4,300 state employees would be affected by this provision.

Senate/Legislature: Delete provision.

6. ELIMINATION OF STATE CONTRIBUTIONS TO THE INCOME CONTINUATION INSURANCE PROGRAM FOR STATE EMPLOYEES

Assembly: Effective July 1, 2002, end state employer contributions to the income continuation insurance program for state employees and provide that any state employee electing to participate in the program must pay the entire monthly premium amount. Stipulate that this modification would be a prohibited subject of bargaining for the state as employer and specify that the premium payment change would first apply to employees who are affected by a collective bargaining agreement that contains inconsistent provisions on the day on which the collective bargaining agreement expires, or is extended, modified, or renewed, whichever first occurs. Estimate GPR lapse amounts from budgeted agency fringe benefits funds of $5,975,100 in 2002-03.

The income continuation insurance program is a voluntary program that pays 75% of gross salary for short-term and long-term disabilities, after certain amounts of sick leave have been used or an elimination period has elapsed. Benefits do not duplicate any other benefits available under existing state or federal programs. State and employee contributions and investment earnings fund the program. Under the current premium structure, state employees who are required to pay the full premium cost of the program pay from $3.81 to $33.71 per month for coverage, depending on current salary and the amount of accrued sick leave.

Senate/Legislature: Delete provision.

7. EARLY RETIREMENT INCENTIVE PLAN

Senate: Establish an early retirement incentive plan for certain Wisconsin Retirement System (WRS) participants during the 2002-03 fiscal year, as follows:

Basic Eligibility Criteria. Specify that any non-elected employee who was an active WRS participant or was on a leave of absence on February 1, 2002, who has at least 10 years of creditable service under the retirement system and who meets all of the other age and service qualifying thresholds at some point during the appropriate "retirement window" period would be eligible for the additional benefits granted under the early retirement incentive plan. An "elected official" would be deemed a WRS participant elected to an office by the vote of the people.

Participation in the early retirement incentive plan by the state as a WRS employer would be automatic. Specify that a WRS participating employer other than the state or a school district employer would have to make an election to make its participating employees eligible for the benefits under the early retirement incentive plan. Stipulate that school district employers would not be eligible to make the plan's benefits available to their participating employees.

July 1, 2002, through January 1, 2003, Window Period. Specify that the early retirement incentive plan would be available to all eligible state employee WRS participants, other than elected officials, eligible employees of the University of Wisconsin System, and eligible employees of the Department of Employee Trust Funds (ETF) during a "retirement window" period beginning July 1, 2002, and ending January 1, 2003. Stipulate that the eligible state employee would have to terminate covered employment during this period and then take an immediate annuity.

For eligible participants who are employed by ETF, specify that the early retirement incentive plan would be available for an employee who does either of the following: (a) terminates covered employment during the period beginning July 1, 2002, and ending January 1, 2003, and takes an immediate annuity; or (b) submits a letter of resignation to ETF during the same July 1, 2002, through January 1, 2003, period with an effective date of resignation after January 1, 2003, but before April 1, 2004, and who at the time of the effective date of the resignation takes an immediate annuity. Stipulate that an eligible ETF employee who submits such a resignation letter would be authorized to subsequently change the effective date of the resignation, but only if the date of resignation is before April 1, 2004.

Specify that the early retirement incentive plan would be available to the eligible non-elected participating employees of other WRS employers, other than school district employers and technical college district employers during the same "retirement window" period of July 1, 2002, through January 1, 2003, provided the employer notified ETF, in writing, before July 1, 2002, of the employer's intention of participating under the plan.

January 1, 2003, through July 1, 2003, Window Period. Specify that the early retirement incentive plan would be available to all eligible state employee WRS participants of the University of Wisconsin System during a "retirement window" period beginning January 1, 2003, and ending July 1, 2003. Stipulate that the eligible state employee would have to terminate covered employment during this period and then take an immediate annuity.

Specify that the early retirement incentive plan would be available to the eligible non-elected participating employees of technical college district employers during the same "retirement window" period of January 1, 2003, through July 1, 2003, provided the employer notified ETF, in writing, before January 1, 2003, of the employer's intention of participating under the plan.

Retirement Benefit Increases Provided during the Operation of the Early Retirement Incentive Plan. During these respective "retirement window" periods, specify that a terminating eligible WRS participating employee would receive the following additional benefits:

- The earliest retirement age for all categories of eligible WRS participants would be reduced by two years so that general and state executive category employees could retire at age 53 and protective service category employees could retire at age 48. A full 4.8% actuarial reduction for each year would be applied to the calculated benefits for employees retiring at these earlier ages.

- An additional two years of age would be granted to eligible individuals for the purpose of computing his or her formula benefit.

- An additional three years of creditable service would be applied to the employment category of the eligible individual at the time of retirement. The additional service credits would be used for the purpose of enhancing the individual's retirement benefit, for the purpose of calculating creditable military service and for the purpose of life insurance coverage. Where an eligible employee had creditable service under more than one employee classification category, the additional creditable service would be based on the last category of employment at the time of termination. The additional service credits would be used to enhance the individual's retirement benefit and would not affect the individual's eligibility for a retirement benefit (for example, the three additional years could not be used to move an employee past the 10 years of creditable service eligibility threshold).

- The three years of extra service granted under the early retirement incentive plan would be treated as a benefit add-on, regardless of whether or not an eligible individual had already achieved the maximum formula benefit or whether or not an eligible individual qualified instead for a money purchase benefit. For the purpose of calculating the value of a money purchase annuity, the initial monthly amount in the normal form would be increased by an amount that equals the formula retirement annuity that results from providing the additional three years of creditable service and the two years of age reduction.

- During the operation of the early retirement incentive plan, all initial formula benefit annuity maximums for all categories of WRS eligible employees are suspended with respect to the increased benefits provided under the plan.

Health Insurance Premium Credit Increases Provided during the Operation of the Early Retirement Incentive Plan. During these respective "retirement window" periods, specify that a terminating eligible WRS participating state employee would receive the following additional benefit:

- An additional $20,000 would be credited to each eligible retiring state employee's supplemental health insurance conversion credit program account for the purpose of funding

post-retirement group health insurance coverage. This provision would not be available to non-state WRS employers that opt to participate under the early retirement incentive plan.

Employer Obligation to Fill Certain Vacant Positions. Specify that a local government participating employer that elects to provide benefits under the early retirement incentive plan would be required to fill, no later than January 1, 2004, all law enforcement and fire fighting positions that are vacated by employees who terminated in order to take advantage of the benefits offered under the plan. This provision would apply only if the employer can fill the positions with qualified individuals.

Permanent Retirement Benefit Improvement Affecting Protective Classification Participants. As a permanent statutory change, stipulate that the maximum amount of an initial formula-based annuity benefit would be increased from 65% to 70% of the participant's final average earnings figure for WRS protective classification employees with Social Security coverage and from 85% to 90% of WRS protective classification employees without Social Security coverage. This change would apply to the calculation of retirement benefits for any WRS participating employee on the general effective date of the budget adjustment act.

General Financing Provisions. Specify that the costs of providing the additional retirement benefits provided under the early retirement incentive plan would be amortized over a 10-year period as a level percentage of payroll. Under s. 40.05(2)(b) of the statutes, all unfunded accrued liabilities of the WRS are treated exclusively as an employer cost. For the purposes of funding the additional liabilities, the state would be treated as a single employer and all local governments choosing to participate under the incentive plan would have all of their liabilities pooled as if they were a single employing unit. A local government employer would not be required to make contributions where no eligible employee elected to receive benefits under the early retirement incentive plan.

The WRS consulting actuary has determined that 17,139 state employees would be eligible for the provisions of the early retirement incentive plan and that 35% (6,000 eligible employees) would elect to terminate and receive benefits under the plan. Based on this level of participation, a total state unfunded liability of $292.7 million is projected. The actuary has further projected that this level of participation under the early retirement incentive plan would initially result in additional employer-paid costs for the state equal to 1.4% of payroll.

For local government employers electing to participate under the plan, if a comparable percentage of eligible employees opted to terminate and receive benefits under the plan, the WRS consulting actuary has determined that an additional 0.9% of payroll would be required to fund these employers' additional costs. The additional payroll cost for local government employers is less than the payroll costs for the state as employer because local government employers would not be offering the $20,000 per eligible employee supplemental health insurance conversion credit benefit.

Financing Provisions: Temporary Employer Contribution Rates. Based on these initial actuarial projections, specify that the increased payroll contribution amount would be collected from state agencies as a temporary employer contribution rate, expressed as a level percent of payroll, to fund the costs of the state employee retirements under the incentive plan. These temporary rates would remain in effect until the January 1 that first occurs after the WRS consulting actuary has made a final rate determination, based on actual retirements under the plan. For a participating employer that is not a state agency, ETF would be required to charge the employer a similar temporary employer contribution rate, expressed as a level percent of payroll, to fund the costs of the local employee retirements under the incentive plan until the January 1 that first occurs after the WRS consulting actuary has made a final rate determination for the costs of the benefits provided under this incentive plan.

Because the increased benefits payable under the incentive plan could result in a near-term negative cash flow for the retirement system (thereby requiring the sale of current WRS assets), specify that the temporary employer contribution rate would begin according to the following schedule. For the state and for those local government employers electing to participate under the early retirement incentive plan whose eligible employees are subject to the "retirement window" period beginning July 1, 2002, and ending January 1, 2003, the increased contribution would apply to the period beginning June 1, 2002 (first payable July 1, 2002) and extending through the January 1 that first occurs after the actuary certifies the final contribution rate. For the University of Wisconsin System for those technical college district employers electing to participate under the early retirement incentive plan whose eligible employees are subject to the "retirement window" period beginning January 1, 2003, and ending July 1, 2003, the increased contribution would apply to the period beginning December 1, 2002 (first payable January 1, 2003) and extending through the January 1 that first occurs after the actuary certifies the final contribution rate.

Financing Provisions: Final Contribution Rates. Stipulate that no later than January 1, 2005, ETF would be required to contract with the WRS consulting actuary for a valuation of the costs of the benefits provided under the early retirement incentive plan as well as the Department's costs for administering the benefits. The actuary would then fix contribution rates sufficient to fund the full cost of the retirement benefits and ETF's administrative costs over the remainder of the 10-year amortization period. These contribution rates would be fixed for both the state and for local employers and would take effect on the January 1 that first occurs after the actuary completes the valuation.

Stipulate that at the time the actuary determines the final rates, but before the January 1 on which they would be applied, a participating employer could fully pay the amount of its unfunded liability as a lump sum payment.

Over the 10-year amortization term, based on the current actuarial assumptions governing the WRS that incorporate a 4.5% annual wage increase over the long term, a total of $421.5 million would be contributed by the state (assuming a permanent 1.4% contribution rate)

to fund the $292.7 million of additional costs attributable to the state under the retirement incentive plan.

Fiscal Effect of Required State Agency Lapses and Transfers of Certain Early Retirement Payroll Savings during 2002-03. Require all state agencies, other than the Department of Employee Trust Funds, the State of Wisconsin Investment Board and the University of Wisconsin System, to lapse or transfer to the general fund all non-FED salary and fringe benefits amounts that were budgeted but were unexpended as the result of employee retirements during a portion of the appropriate window period. This lapse requirement would apply only to the salary and fringe benefits savings generated under the incentive plan between January 1, 2003, and June 30, 2003. There would be no required salary and fringe benefits savings lapses or transfers required for any affected state agency after June 30, 2003.

Base Level Appropriations Reductions Required. Following the required lapses and transfers, the Secretary of the Department of Administration would be required to impose base level reductions on each agency's affected appropriations to the extent that lapses or transfers are taken. In making the adjustments, the Secretary would be required to reduce the amount of the lapse or transfer by the amount of the agency's increased payroll contribution costs under the early retirement incentive plan.

It is estimated that 4,203 eligible state employees would retire during the 2002-03 fiscal year from all state agencies. Excluding the Department of Employee Trust Funds, the State of Wisconsin Investment Board and the University of Wisconsin System, non-FED salary and fringe benefits lapses and transfers to the general fund between January 1, 2003, and June 30, 2003, attributable to these retirements are estimated at $83.4 million ($44.7 million GPR, $31.9 million PR and $6.8 million SEG annually).

An estimated 1,797 eligible additional state participants who are faculty at the University would ultimately retire under the incentive plan's retirement window period for the University; however, no savings are projected during the 2002-03 fiscal year from these retirements because the UW System would be exempt from the lapse requirement.

Because additional employer-paid contributions equal to 1.4% of payroll would be required to fund the benefits under the incentive plan, commencing July 1, 2002, for those state agencies other than the University of Wisconsin System, and commencing January 1, 2003, for the University of Wisconsin System, these additional employer payroll costs would partially offset the identified salary and fringe benefits savings. These additional payroll contributions are estimated at $26.2 million ($12.0 million GPR, $3.3 million FED, $8.8 million PR and $2.1 million SEG) for 2002-03. Net of these additional payroll contribution costs, projected non-FED lapses and transfers to the general fund of salary and fringe benefits savings under the incentive plan are estimated at $60.5 million in 2002-03 (consisting of the net of savings of $32.7 million GPR, $23.1 million PR and $4.7 million SEG).

Fiscal Effect during 2002-03 of Permanently Increasing the Maximum Initial Formula-Based Retirement Annuity for Protective Participants. The increase in the maximum amount of an initial formula-based retirement annuity from 65% to 70% of final average earnings for protective classification employees with Social Security coverage and from 85% to 90% of final average earnings for protective classification employees without Social Security coverage is projected by the WRS consulting actuary to impact state protective service employees' fringe benefits costs by 0.2% of payroll. However, this additional cost would not be expected to impact state payroll costs until January 1, 2004; consequently, there would be no fiscal effect for the state during 2002-03.

Administrative Costs Associated with the Program. Create a new biennial appropriation under ETF, funded from the Public Employee Trust Fund, for the purpose of administering the provisions of the early retirement incentive plan. A total of $1,075,000 SEG annually would be appropriated under this new appropriation. In addition, 53.0 SEG project positions would be authorized for ETF and funded from this appropriation through December 31, 2004, to address the agency's increased retirement counseling and benefits calculation workload before, during and after the window periods.

Emergency Rules. Authorize ETF to promulgate emergency administrative rules to administer the benefits provided under the early retirement incentive plan and to establish any of the funding mechanisms required to pay the cost of retirement benefits for the period before permanent rules take effect, but not to exceed a total of 270 days. In order to promulgate the emergency rules, stipulate that the Department would not have to provide evidence that the rules were necessary for the preservation of public peace, health, safety or welfare or a finding of an emergency.

Fiscal Implications for the 2003-05 Biennium and Future Fiscal Biennia. During the next biennium, state contributions to fund the proposed retirement incentive are estimated at approximately $36 million ($16.5 million GPR, $4.5 million FED, $12.2 million PR and $2.8 million SEG) in 2003-04 and $38 million ($17.4 million GPR, $4.8 million FED, $12.8 million PR and $3.0 million SEG) in 2004-05. These contribution levels assume that the 1.4% contribution rate initially recommended by the WRS consulting actuary remains unchanged through the next biennium. In future biennia, total annual state employer-paid contributions for incentive plan benefits are projected to increase by 4.5% annually, based on current actuarial assumptions governing long-term wage increases. In addition, the permanent increase in the maximum amount of an initial formula-based retirement annuity for protective classification state employees will result in additional payroll costs of 0.2% of payroll for such employees, first effective January 1, 2004. Based on the calendar year 2000 payroll for state protective employees ($270.3 million), this provision would result in increased all funds employer costs of $0.3 million in 2003-04 and $0.5 million in 2004-05.

Notwithstanding these additional contribution costs, the Secretary of Administration would be required to impose certain base level offsetting reductions to most state agency

appropriations equal to the amount of lapses and transfers made to the general fund as a result of retirements under the plan. The amount of these reductions is estimated at $83.4 million ($44.7 million GPR, $31.9 million PR and $6.8 million SEG). The lapses and transfers would occur in the second six months of fiscal year 2002-03. Net of contribution rate increases, the lapse and transfer amounts would delete nearly one-half year's funding associated with each vacated position. State agencies subject to the lapse and transfer requirements would still have base level funding at least equivalent to one half of the vacated position's salary and fringe benefits costs. Since the proposal would not prohibit an agency from filling any position left vacant due to retirements, these residual base level funds could presumably be used to fund some replacement positions during the 2003-05 fiscal biennium.

Future appropriations savings would be dependent upon the number of vacant positions that are filled and the level of compensation for the filled positions. Since agencies are not required to delete the position authority associated with any eligible employee electing to retire under the incentive plan, an agency could request full funding amounts associated with each vacant position as a "standard budget adjustment" item under the state's current biennial budget preparation instructions.

Further, in a number of instances, it is likely that agencies will need to fill vacant positions and the Governor and Legislature will provide funding to staff such programs as correctional institutions, care and treatment facilities, offices of district attorneys, the courts, the Office of the

State Public Defender and other areas of state government. It is not known what level of funding for these positions would be restored in 2003-05 and future biennia.

Conference Committee/Legislature: Delete provision.

EMPLOYMENT RELATIONS

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $497,900	- $58,600	- $29,300	- $585,800

Governor: Reduce the Department's general operations appropriation by $205,000 in 2001-02 and $292,900 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the Department's general operations appropriation by an additional $58,600. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03.

Assembly: Reduce the Department's general operations appropriation by an additional $29,300. This amount represents an additional 0.5% reduction to the agency's state operations appropriation in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9218(1)]

2. TECHNICAL CORRECTIONS TO 2001 WISCONSIN ACT 29

Joint Finance/Legislature: Include language to make technical corrections to 2001 Wisconsin Act 29, which created a new category of executive salary groups (called Wisconsin Technical College System Senior Executive Positions) for the positions of Director and Executive

Assistant at the Wisconsin Technical College System (WTCS). The technical corrections would provide cross-references for these new salary group positions to existing statutory provisions governing: (a) the calculation of retirement benefits and annual leave credits for all executive salary group employees; and (b) coverage under the state ethics code and compensatory time exclusions. Specify that these changes would be effective retroactive to February 1, 2002.

[Act 109 Sections: 24m, 71g, 100g, 365d, 365g and 9448(2x)]

EMPLOYMENT RELATIONS COMMISSION

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $225,300	- $26,500	- $13,300	- $265,100

Governor: Reduce the Commission's general operations appropriation by $92,800 in 2001-02 and $132,500 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the Commission's general operations appropriation by an additional $26,500 in 2002-03. This amount represents an additional 1% reduction to the agency's state operations appropriation in 2002-03.

Assembly: Reduce the Commission's general operations appropriation by an additional $13,300 in 2002-03. This amount represents an additional 0.5% reduction to the agency's state operations appropriation for 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9217]

2. DISCIPLINARY PROCEDURES INVOLVING LOCAL PUBLIC SAFETY OFFICERS

Senate/Legislature: Incorporate the provisions of 2001 Senate Bill 185, as passed by the Senate. Under Senate Bill 185, if a law enforcement officer or firefighter (public safety officer) employed by a city, village or town is the subject of a disciplinary action by a police or fire chief, sheriff, county board, civil service commission, grievance committee or board of police and fire commissioners, and the public safety officer is also subject to a collective bargaining agreement that establishes an alternative appeal process to the current law appeal process to the county circuit court of jurisdiction, specify that the appeal process established under the collective bargaining agreement would apply, unless the public safety officer chooses to appeal the disciplinary action to the circuit court. Specify that if the alternative appeal process includes a hearing, the hearing must be open to the public with reasonable advance notice given by the employer. Stipulate that if an accused public safety officer chooses to appeal through the alternative process, the individual is considered to have waived his or her right to subsequent circuit court review. Specify that these revised procedures would first apply to those public safety officer employees of any city, village or town covered by a collective bargaining agreement that is in effect on the effective date of the bill or upon the expiration, extension, renewal or modification of the agreement.

These revised disciplinary appeal procedures would not apply to public safety officers employed by the City of Milwaukee.

Under current law, the imposition of disciplinary action against a local public safety officer may be appealed to circuit court. The court must consider whether there is "just cause" to sustain the charges against the accused individual. If the court upholds the discipline imposed, that action is final and conclusive. If the disciplinary action is reversed by the court, the public safety officer is reinstated and is entitled to back pay.

Veto by Governor [F-1]: Delete provision.

[Act 109 Vetoed Sections: 150g and 9359(7v)]

3. QUALIFIED ECONOMIC OFFER MODIFICATIONS

Senate: Modify current law qualified economic offer (QEO) provisions applicable to school district employers, as follows:

New QEO Component: Maintenance of All Conditions of Employment. In order for a school district employer's offer to be deemed "qualified," newly require the employer to maintain all conditions of employment as those conditions existed 90 days prior to the expiration of any previous collective bargaining agreement between the employer and its represented teaching

employees or 90 days prior to the commencement of negotiations, if there was no previous collective bargaining agreement.

New QEO Component: Maintenance of Any Provisions Relating to Permissive Subjects of Bargaining. In order for a school district employer's offer to be deemed "qualified," newly require the employer to maintain any provisions relating to permissive subjects of bargaining that existed in the previous collective bargaining agreement between the employer and its represented teaching employees or that existed 90 days prior to the expiration of any previous collective bargaining agreement between the parties in any written agreement by the parties.

Binding Arbitration Authorized if Employer's Offer is Not "Qualified." Specify that if an investigator from the Employment Relations Commission determines, as part of an investigation whether a bargaining impasse exists between the parties, that the employer has not submitted a timely QEO, either the labor organization representing the school district professional employees or the school district employer would be authorized to petition for compulsory, final and binding arbitration, and the current law QEO provisions whereby an employer could avoid such arbitration procedures would not apply. Require the Commission to prescribe by rule the methodology to be used to determine whether or not a proposal submitted by a school district employer constitutes a timely QEO.

Initial Applicability. Provide that these provisions would first apply to petitions for arbitration filed by school district employers or their represented teaching employees with respect to any unsettled contract for the 2001-03 school years.

Conference Committee/Legislature: Delete provision.

4. TEACHER PREPARATION TIME AS A MANDATORY SUBJECT OF BARGAINING

Senate: Specify that in a school district, in addition to any matter that is a mandatory subject of bargaining, the employer would be required to bargain collectively with respect to: (a) time spent during the school day, separate from pupil contact time, to prepare lessons, labs, or educational materials, to confer or collaborate with other staff, or to complete administrative duties; and (b) time spent to perform the duties required of an individualized education program team. Specify that these provisions would first apply to collective bargaining agreements that cover any period that begins after June 30, 2003.

Under current law, employers are required to bargain only on those matters deemed mandatory subjects of bargaining (wages, hours and conditions of employment). Matters that are deemed to relate primarily to the management and direction of the municipal employer are permissive subjects of bargaining and the employer is not obligated to bargain such matters

collectively. This provision would ensure that matters relating to teacher preparation time be treated as mandatory subjects of bargaining.

Conference Committee/Legislature: Delete provision.

ETHICS BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $21,100	- $2,500	- $1,200	- $24,800

Governor: Reduce the general program operations appropriation by $8,700 in 2001-02 and $12,400 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the general program operations appropriation by an additional $2,500 in 2002-03, which represents an additional 1% of the appropriation.

Assembly: Reduce the general program operations appropriation by an additional $1,200 in 2002-03, which represents an additional 0.5% of the appropriation.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9219(1)]

FINANCIAL INSTITUTIONS

1. PROGRAM REVENUE LAPSE [LFB Paper 1121]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	$1,290,500	$0	$1,290,500
PR-Lapse	1,290,500	0	1,290,500
PR	$0	- $1,290,500	- $1,290,500

Governor: Lapse $531,400 in 2001-02 and $759,100 in 2002-03 to the general fund from the agency's general program operations PR appropriation. Under current law, all balances remaining in this appropriation lapse to the general fund at the close of each fiscal year. Although this provision would not explicitly reduce the agency's appropriation, the administration indicates it will direct DFI to reduce its expenditures to ensure that the additional lapses will occur.

Joint Finance/Legislature: Reduce DFI's general program operations appropriation by $531,400 PR in 2001-02 and $759,100 PR in 2002-03.

[Act 109 Section: 9220(1e)]

2. REGULATION OF CREDIT UNIONS

Assembly: Specify that credit unions are not included in the definition of "business" that is subject to regulation by the Department of Agriculture, Trade and Consumer Protection. Currently, banks, savings banks, saving and loan associations and insurance companies are excluded from this definition.

Make the following changes to the statutes relating to the regulation of credit unions (Chapter 186 of the statutes):

Definitions

Modify the current definition of "credit union" to provide exceptions for credit unions resulting from interstate acquisitions and mergers and for non-Wisconsin credit unions that operate in this state under provisions outlined below. Under current law, "credit union" means a cooperative, nonprofit corporation, incorporated under Chapter 186 to encourage thrift

among its members, create a source of credit at a fair and reasonable cost and provide an opportunity for its members to improve their economic and social conditions.

Credit Union Bylaws and Board Duties

Change the statutes related to credit union bylaws and board duties as follows:

a. Specify that credit union bylaws would have to prescribe the conditions that determine eligibility for membership. Currently, the bylaws must prescribe the conditions of residence or occupation that qualify persons for membership.

b. Amend the current requirement that credit unions be open to certain groups of individuals, including residents within a well-defined neighborhood, community or rural district to require, instead, that credit unions be open to individuals who reside or are employed within: (1) well-defined and contiguous neighborhoods and communities; or (2) well-defined and contiguous rural districts or multicounty regions. Provide that if, following a merger of credit unions, DFI's Office of Credit Unions (OCU) determines that it would be inappropriate to require members of the resulting credit union to reside or be employed within well-defined and contiguous neighborhoods and communities, the requirement under (1) would not apply.

c. Eliminate the definition of "members of the immediate family" in the current provision specifying that members of the immediate family of all qualified persons are eligible for membership. Under present law, "members of the immediate family" include the wife, husband, parents, stepchildren and children of a member whether living together in the same household or not and any other relatives of the member or spouse of a member living together in the same household as the member. Under the provision, "members of the immediate family" would be defined in the general bylaws establishing membership criteria under (a) above.

d. Provide that organizations and associations of individuals could be admitted to membership in a credit union in the same manner and under the same conditions as individuals if the majority of the association's or organization's directors, owners or members are eligible. Current law provides that such organizations and associations are eligible if the majority of individuals in the association or organization are eligible for membership. Also, specify that an organization or association that has its principal business location within the geographic limits of the credit union's field of membership could be admitted to membership.

Investments of Credit Unions

Make the following changes to the statutes relating to investments of credit unions:

a. Change all references regarding investment in "credit union service corporations" to, instead, refer to "credit union service organizations."

b. Permit a credit union to invest more than 1.5% of its total assets in the capital shares or obligations of a credit union service organization organized primarily to provide goods and services to credit unions, credit union organizations and credit union members, if approved by OCU. Allow such investments in service organizations that are structured as corporations, limited partnerships, limited liability companies or other entities that are permitted under state law and approved by OCU. Under current law, a credit union may invest up to 1.5% of its total assets in the capital shares or obligations of a credit union service corporation. OCU may not approve a higher percentage, and the service organization must be a corporation.

c. Add electronic transaction services to the list of services that credit union service organizations may provide.

Credit Union Powers

Make the following changes to the statutes on credit union powers:

a. Provide that, with OCU's approval, a credit union could establish branch offices inside this state or outside of this state. Currently, a credit union may establish branch offices in Wisconsin or no more than 25 miles outside of this state if the need and necessity exist and with the approval of OCU.

b. Provide that the current law provisions that authorize a credit union to establish limited services offices outside this state to serve any member of the credit union under specified conditions would only apply to such services established prior to the bill's general effective date. [Out-of-state branch offices would be permitted after that date.]

c. Authorize credit unions to: (1) act as trustees or custodians of member tax deferred retirement funds, individual retirement accounts, medical savings accounts or other employee benefit accounts or funds permitted by federal law to be deposited in a credit union; and (2) act as a depository for member qualified and nonqualified deferred compensation funds as permitted by federal law. Current law authorizes credit unions to act as trustees of member tax deferred funds permitted by federal law to be deposited in a credit union and to act as a depository for member-deferred compensation funds as permitted by federal law.

d. Create a provision that would authorize a credit union to accept deposits made by members for the purpose of funding burial agreements by certain trusts.

Financial Privacy

Create a new provision requiring credit unions to comply with federal requirements and regulations prescribed by the National Credit Union Administration relating to financial privacy, and requiring OCU to examine a credit union to determine compliance with these provisions.

Office of Credit Unions

a. Require employees of OCU and members of the Credit Union Review Board to keep secret all facts and information obtained in the course of examinations or contained in any report provided by a credit union other than any semiannual or quarterly financial report that is regularly filed with OCU, except in specified situations. Current law does not include the reference to information "contained in any report provided by a credit union other than any semiannual or quarterly financial report that is regularly filed with the Office of Credit Unions."

b. Provide that if an OCU employee or Credit Union Review Board member illegally discloses information about the private account or transactions of a credit union or information obtained in the course of a credit union examination, that person would be guilty of a Class I felony.

c. Specify that examination reports possessed by credit unions are confidential, remain the property of OCU and must be returned to the office immediately upon request.

d. Repeal the current provision that allows OCU to accept certain audits in lieu of conducting an annual examination. Under present law, at least annually, OCU must examine the records and accounts of each credit union. However, instead of conducting an examination, OCU may accept an audit report made by a certified public accountant not an employee of the credit union in accordance with rules of the Office or may accept an examination or audit made or approved by the National Credit Union Administration Board (NCUAB).

Sales of Insurance in Credit Unions

Require any officer or employee of a credit union, when acting as an agent for the sale of insurance on behalf of the credit union, to pay all commissions received from the sale of insurance to the credit union. Current law provides similar provisions but specifies that they apply to such commissions received from the sale of credit life insurance or credit accident and sickness insurance.

Interstate Acquisitions and Mergers of Credit Unions

Amend the statutes related to interstate acquisitions and mergers of credit unions as follows:

a. Define a "Wisconsin credit union" as a credit union having its principal office located in this state. Current law applies this definition to an "in-state credit union" rather than a "Wisconsin credit union."

b. Authorize a Wisconsin credit union to acquire or merge with credit unions located in any other state. Currently, an in-state credit union may acquire or merge with one or more regional credit unions (a state or federal credit union that has its principal office located in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri or Ohio).

c. Allow any out-of-state credit union (a state or federal credit union that has its principal office in a state other than Wisconsin) to acquire or merge with Wisconsin credit unions. Current law allows only regional credit unions to acquire or merge with in-state credit unions.

d. Repeal a current provision that requires any in-state or regional credit union that has acquired assets of or merged with an in-state credit union and that ceases to be an in-state credit union or regional credit union to immediately notify OCU of the change in its status and, as soon as practical within two years after the event causing it to no longer be one of these entities, divest itself of control of any interest in the assets or operations of any in-state credit union. In addition, repeal the current penalty for failure to immediately notify OCU (a forfeiture of $500 for each day beginning with the day its status changes and ending with the day notification is received by the Office).

Wisconsin Offices of a Non-Wisconsin Credit Union

Create the following provisions related to a Wisconsin office of a non-Wisconsin Credit Union

Definitions. Define a "non-Wisconsin credit union" as a credit union organized under the laws of and with its principal office located in another state. Specify that "Wisconsin credit union" would have the meaning given under "Interstate Acquisitions and Mergers of Credit Unions."

Authority. Permit non-Wisconsin credit unions to open an office and conduct business as a credit union in this state if OCU finds that Wisconsin credit unions are allowed to do business in the other state under conditions similar to those contained under these provisions and that all of the following apply to the non-Wisconsin credit union: (a) it is organized under laws similar to the credit union laws of this state; (b) it is financially solvent based upon NCUAB ratings; (c) it has member savings insured with federal share insurance; (d) it is effectively examined and supervised by the credit union authorities of the state in which it is organized; (e) it has received approval from the credit union authorities of the state in which it is organized; (f) it has a need to place an office in this state to adequately serve its members in this state; and (g) it meets all other relevant standards or qualifications established by OCU.

Requirements. Require non-Wisconsin credit unions to do all of the following: (a) grant loans at rates not in excess of the rates permitted for Wisconsin credit unions; (b) comply with Wisconsin laws; and (c) designate and maintain an agent for the service of process in this state.

Records. Specify that, as a condition of a non-Wisconsin credit union doing business in this state, OCU could require the non-Wisconsin credit union to provide copies of examination reports and other related correspondence from the state in which the non-Wisconsin credit union has its principal office.

False Statements

Create a provision that would prohibit an officer, director, or employee of a credit union from: (a) willfully and knowingly subscribing to or making, or causing to be made, a false statement or entry in the books of the credit union; (b) knowingly subscribing to or exhibiting false information with the intent to deceive any person authorized to examine the affairs of the credit union; and (c) knowingly making, stating, or publishing any false report or statement of the credit union. Specify that any person who commits any of these infractions would be guilty of a Class F felony.

Senate: Include provisions similar to those of the Assembly with the two changes outlined below.

First, include technical corrections to the Assembly proposal to make the penalties for the following offenses consistent with the state's truth-in-sentencing legislation: (a) illegally disclosing information about the private account or transactions of a credit union or information obtained in the course of a credit union examination; and (b) certain false statements made by credit union employees.

Second, include a provision specifying that a credit union's annual examination by the Office of Credit Unions in the Department of Financial Institutions would be required to include an examination of the credit union's compliance with federal privacy laws governing: (a) the protection of accountholders' nonpublic personal information afforded by financial institutions; (b) obligations with regard to disclosures of account holders' personal information; (c) disclosure of the institution's privacy policy to its accountholders; and (d) certain rulemaking procedures [15 USC 6801 through 6804]. However, the annual examination by the Office of Credit Unions would not be required to include such an assessment if, during the 12 months preceding the date of the examination, the credit union had received a consumer compliance examination from the National Credit Union Administration Board that contained information regarding the credit union's compliance with the federal privacy laws.

Conference Committee/Legislature: Delete provision.

3. UNIVERSAL BANKING

Assembly: Authorize the Division of Banking (DOB) within the Department of Financial Institutions to certify savings banks, saving and loan associations and state banks as "universal banks" under the procedures and with the powers outlined below. Provide that a universal bank would be one of the regulated entities under the powers of supervision and control of DOB. The provisions relating to universal banks would be created in a new chapter of the statutes, and could be cited as the "Wisconsin universal bank law" (UB Law).

General Provisions

Under current law, the Division of Savings Institutions (DSI) regulates savings banks and savings and loan associations. DOB regulates state banks. The powers and regulation of these financial institutions are specified in the statutes and vary by type of institution. The UB Law would allow such financial institutions organized under state statutes to apply to DOB to be certified as a universal bank. Certification as a universal bank would provide expanded powers when compared to those currently held by the individual financial institutions. Financial institutions certified as universal banks would remain subject to existing requirements, duties and liabilities and would retain their powers as savings banks, savings and loan associations or state banks, except that, in the event of a conflict between the UB Law and such requirements, duties, liabilities or powers, the UB Law would control.

The Division of Banking would be required to administer the UB Law for all universal banks and to establish such fees as it determined were appropriate for documents filed with the Division and for services provided by the Division. DOB would also be authorized to promulgate rules to carry out the UB Law and to establish additional limits or requirements on universal banks if it determined that the limits or requirements were necessary for the protection of depositors, members, investors or the public.

Certification

A state-chartered savings bank, savings and loan association or bank would be allowed to apply to become certified as a universal bank by filing a written application with DOB including such information as the Division required and on such forms and in accordance with such procedures as DOB prescribed. DOB would be required to approve or disapprove the application in writing within 60 days after its submission to the Division. However, DOB and the financial institution could mutually agree to extend the application period for an additional 60 days.

DOB would be required to approve an application for certification as a universal bank if the applying financial institution met all of the following requirements:

a. It was chartered or organized, and regulated, as a savings bank, savings and loan association or state bank under Wisconsin statutes and had been in existence and continuous operation for a minimum of three years prior to the date of the application.

b. It was "well-capitalized" as defined by federal law related to banks and banking.

c. It did not exhibit a combination of financial, managerial, operational and compliance weaknesses that were moderately severe or unsatisfactory, as determined by the Division based upon the Division's assessment of the financial institution's capital adequacy, asset quality, management capability, earnings quantity and quality, adequacy of liquidity and sensitivity to market risk.

d. During the 12-month period prior to the application, it had not been the subject of an enforcement action and had no enforcement action pending against it by any state or federal financial institution regulatory agency, including DOB.

e. The most recent evaluation under federal community reinvestment laws rated the financial institution as "outstanding" or "satisfactory" in helping to meet the credit needs of its entire community, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of the institution.

f. The financial institution's federal-level regulator determined, by means of an examination, that the institution was in substantial compliance with federal laws regarding the protection of customers' nonpublic personal information.

For any period during which a universal bank failed to meet such requirements, the Division would be required to limit or restrict the exercise of the powers of the universal bank under the UB Law. In addition, the Division could revoke the universal bank's certificate of authority.

DOB would be required to issue to an applicant approved for certification as a universal bank a certificate of authority stating that the financial institution was so certified.

A financial institution certified as a universal bank would be authorized to terminate its certification upon 60 days' prior written notice to the Division and written approval of the Division. As a condition to the termination, the financial institution would be required to terminate its exercise of all powers granted under the UB Law prior to the termination of the certification. Written approval of the termination by DOB would be void if the financial institution failed to satisfy this precondition to termination.

Organization

Articles of Incorporation and Bylaws. A universal bank would continue to operate under its articles of incorporation and bylaws as in effect prior to certification as a universal bank or as such articles or bylaws were subsequently amended in accordance with the provisions of the statutes under which the universal bank was organized or chartered.

Name of a Universal Bank. Under current law and with certain exceptions, an institution organized as a state savings bank is required to adopt a name that identifies it as such and that includes the term "savings." With certain exceptions, an institution organized as a mutual savings and loan association or as a capital stock savings and loan association is required to include the words "savings and loan association" or "savings association" in its name. Such an institution is required to include the word "savings" in its name if its name includes the word "bank."

Subject to certain provisions on distinguishability and use of the same name, as described below, the UB Law would allow a state savings bank, state mutual savings and loan association or state capital stock savings and loan association that had been certified as a universal bank to use the word "bank" in its name, without having to include the word "savings." In addition, subject to the same provisions on distinguishability and use of the same name, the UB Law would specify that a universal bank organized as a savings and loan association that used the word "bank" in its name in accordance with the UB Law need not include the words "savings and loan association" or "savings association" in its name.

The UB Law would require that, with certain exceptions, the name of the universal bank be distinguishable upon the records of DOB from the following: (a) the name of any other financial institution organized under the laws of this state; and (b) the name of a national bank or foreign bank authorized to transact business in this state.

However, a universal bank would be allowed to apply to the Division for authority to use a name that did not meet such requirements as to a distinguishable name. DOB could authorize the use of the name if either of the following conditions were met: (a) the other bank consented to the use in writing and submitted an undertaking, in a form satisfactory to DOB, to change its name to a name that was distinguishable upon the records of the Division from the name of the applicant; or (b) the applicant delivered to DOB a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant’s right to use the name applied for in this state. Such exceptions to the distinguishable name requirements are consistent with current law for state banks.

In addition, a universal bank would be able to use a name that was used in this state by another financial institution, or by an institution authorized to transact business in this state, if the universal bank had done any of the following: (a) merged with the other institution; (b) been

formed by reorganization of the other institution; or (c) acquired all or substantially all of the assets, including the name, of the other institution.

Capital Requirements

Current law provides differing requirements related to capital, net worth and capital stock for the various types of financial institutions. For a savings bank, the statutes specify that such an institution may be organized to exercise the powers conferred by the relevant statutes with minimum capital, surplus and reserves for operating expenses as determined by the Division of Savings Institutions. Additional specifications are made in such areas as evidence and maintenance of capital, dividends and the nature of capital stock, capital stock loans and retirement or reduction of capital stock.

The statutes on savings and loan associations provide that such institutions must maintain net worth at an amount not less than the minimum amount established by DSI and authorize DSI to take appropriate action if an association fails to maintain the minimum net worth required.

Under current law, DOB determines the required capital of a state bank, subject to review by the Banking Review Board. The statutes also specify that a contingent fund and paid-in surplus each in an amount equal to at least 25% of the aggregate amount of the capital stock must be subscribed at the time the subscription list of shareholders is prepared by the incorporators.

Notwithstanding such provisions, the UB Law would authorize DOB to determine the minimum capital requirements of a savings bank, savings and loan association and state bank certified as a universal bank.

The UB Law would define capital for a universal bank organized as a stock organization as the sum of the following, less the amount of intangible assets that were not considered to be qualifying capital by a deposit insurance corporation or the Division: (a) capital stock; (b) preferred stock; (c) undivided profits; (d) surplus; (e) outstanding notes and debentures approved by DOB; (f) other forms of capital designated as capital by the Division; and (g) other forms of capital considered to be qualifying capital of the universal bank by a deposit insurance corporation. For a universal bank organized as a mutual organization, the same definition would apply except that net worth would be substituted for capital and preferred stock. "Deposit insurance corporation" would mean the Federal Deposit Insurance Corporation or other instrumentality of, or corporation chartered by, the United States that insures deposits of financial institutions and that is supported by the full faith and credit of the U.S. government as stated in a congressional resolution.

Under current law, a state savings bank is required to achieve and maintain status as an Internal Revenue Service qualified thrift lender. Such status requires meeting either the 60%

asset test of the section of the Internal Revenue Code (IRC) on domestic building and loan associations, or an asset test prescribed by rule of DSI that is not less than the percentage prescribed by such section of the IRC. The UB Law would specify that this requirement does not apply to universal banks.

Acquisitions, Mergers and Asset Purchases

The UB Law would authorize a universal bank, with the approval of DOB, to purchase the assets of, merge with, acquire or be acquired by any other financial institution, universal bank, national bank, federally chartered savings bank or savings and loan association, or by a holding company of any of these entities. An application for approval of such acquisitions, mergers and asset purchases would have to be submitted on a form prescribed by DOB and accompanied by a fee determined by the Division. Notwithstanding other provisions of state law, DSI approval would not be required for acquisitions or mergers involving a state savings bank or savings and loan association.

In processing and acting on applications for approval of acquisitions, mergers and asset purchases involving a universal bank, DOB would be required to apply the standards specified in the statutes governing the type of financial institution under which the universal bank had been organized or chartered.

Federal Financial Institution Powers

Subject to the limitations outlined below, the UB Law would authorize universal banks to exercise all powers that may be exercised, directly or indirectly through a subsidiary, by a federally chartered savings bank, a federally chartered savings and loan association or a federally chartered national bank. A universal bank would be required to file a written request with DOB to exercise a power under these provisions. Within 60 days after receiving the request, the DOB would be required to approve or disapprove it. The 60-day deadline could be extended by an additional 60 days if DOB and the institution mutually agree to an extension. The UB Law would specify that DOB could require that certain powers exercisable by universal banks be exercised through a subsidiary of the universal bank with appropriate safeguards to limit the risk exposure of the universal bank.

Loan Powers

General Provisions. The UB Law would permit a universal bank to make, sell, purchase, arrange, participate in, invest in or otherwise deal in loans or extensions of credit for any purpose. With the exceptions described below, the total liabilities of any person, other than a municipal corporation, to a universal bank for a loan or extension of credit could not exceed 20% of the capital of the universal bank at any time. In determining compliance with this restriction, liabilities of a partnership would include the liabilities of the general partners, computed individually as to each general partner on the basis of his or her direct liability.

However, the UB Law would provide that the percentage limitation described above would be 50% of the universal bank's capital if the borrower's debts were limited to certain types of liabilities. The first type includes a liability secured by warehouse receipts issued by warehouse keepers who are licensed and bonded under state law or under the federal Bonded Warehouse Act or who hold a registration certificate under Wisconsin law referred to as the Warehouse Keepers and Grain Dealers Security Act, if: (a) the receipts cover readily marketable nonperishable staples; (b) the staples are insured, if it is customary to insure the staples; and (c) the market value of the staples is not, at any time, less than 140% of the face amount of the obligation.

The second type of liability for which the percentage limitation described above would be 50% of the universal bank's capital is a liability in the form of a note or bond that met any of the following qualifications: (a) the note or bond is secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States; (b) the note or bond is secured or covered by guarantees or by commitments or agreements to take over, or to purchase, the bonds or notes, and the guarantee, commitment or agreement was made by a federal reserve bank, the federal Small Business Administration, the federal Department of Defense or the federal Maritime Commission; or (c) the note or bond is secured by mortgages or trust deeds insured by the federal Housing Administration.

Local Governmental Units. The UB Law would specify that liabilities of a local governmental unit could not exceed 25% of a universal bank's capital. However, if the local governmental unit's liabilities were in the form of general obligations, the limit would be extended to 50%. If the liabilities included both revenue and general obligations, the limit would be 25% for the revenue obligations and a total of 50% for the combination of revenue and general obligations.

In addition, the total amount of temporary borrowings of any local governmental unit maturing within one year after the date of issue could not exceed 60% of the capital of the universal bank. Temporary borrowings and longer-term general obligation borrowings of a single local governmental unit could be considered separately in determining compliance with this provision.

Foreign National Government Bonds. A universal bank would be authorized to purchase general obligation bonds issued by any foreign national government if the bonds were payable in United States funds. The aggregate investment in these foreign bonds would not be permitted to exceed 3% of the capital of the universal bank, except that this limitation would not apply to bonds of the Canadian government and Canadian provinces that were payable in United States funds.

Other Foreign Bonds. The UB Law would authorize a universal bank to purchase bonds offered for sale by the International Bank for Reconstruction and Development and the Inter-American Development Bank or such other foreign bonds as were approved under rules

established by DOB. The UB Law would specify that the aggregate investment in any of these bonds issued by a single issuer could not exceed 10% of the capital of the universal bank.

Limits Established by the Board of Directors. The UB Law would provide that the board of directors of a universal bank could establish an aggregate total level above which a universal bank could not make or renew a loan or loans without being supported by a signed financial statement of the borrower, unless the loan was secured by collateral having a value in excess of the amount of the loan. A signed financial statement furnished by the borrower to a universal bank in compliance with this provision would have to be renewed annually as long as the loan or any renewal of the loan remained unpaid and was subject to this provision. A loan or a renewal of a loan made by a universal bank in compliance with the level established by the board of directors of the universal bank, without a signed financial statement, could be treated by the universal bank as entirely independent of any secured loan made to the same borrower if the loan did not exceed the limitations provided under the UB Law related to loan powers.

Exceptions to Loan Powers of Universal Banks. The limits on individual liabilities would not apply to the following:

a. Liabilities secured by certain short-term federal obligations. A liability that was secured by not less than a like amount of direct obligations of the United States which would mature not more than 18 months after the date on which such liabilities to the universal bank were entered into;

b. Certain federal and state obligations or guaranteed obligations. A liability that was a direct obligation of the United States or this state, or an obligation of any governmental agency of the United States or this state, that was fully and unconditionally guaranteed by the United States or this state;

c. Commodity Credit Corporation liabilities. A liability in the form of a note, debenture or certificate of interest of the Commodity Credit Corporation;

d. Discounting bills of exchange or business or commercial paper. A liability created by the discounting of bills of exchange drawn in good faith against actually existing values or the discounting of commercial or business paper actually owned by the person negotiating the same; and

e. Certain other federal or federally guaranteed obligations. In obligations of, or obligations that were fully guaranteed by, the United States and in obligations of any federal reserve bank, federal home loan bank, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Export-Import Bank of Washington or the Federal Deposit Insurance Corporation.

Additional Loan Authority. Under current law for state banks, debts due a bank on which interest is past due and unpaid for a period of 12 months generally must be considered bad debts. Such bad debts must be charged off to the profit and loss account at the expiration of one year from the date on which the debt became past due, unless the debts are well secured or in the process of collections.

The UB Law would permit a universal bank to lend, to all borrowers, up to 20% of its capital, which would not be subject to classification as bad debts or losses for a period of two years. A universal bank or its subsidiary would be permitted to take an equity position or other form of interest as security in a project funded under this additional loan authority. Every transaction by a universal bank or its subsidiary under these provisions would require prior approval by the governing board of the universal bank or its subsidiary, respectively. Such loans could be dispersed directly or through a subsidiary. However, neither a universal bank nor any subsidiary of the universal bank could lend to any individual borrower an amount that would result in an aggregate amount for all loans to that borrower to exceed 20% of the universal bank's capital. As outlined below, DOB could suspend this additional loan authority.

Suspension of Additional Loan Authority. DOB could suspend the additional loan authority and, in such case, specify how an outstanding loan would be treated by the universal bank or its subsidiary. Among the factors that the Division could consider in suspending authority under this provision are the universal bank's capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity and sensitivity to market risk and the ability of the universal bank's management.

Exercise of Loan Powers; Prohibited Considerations. In determining whether to make a loan or extension of credit, no universal bank could consider any health information obtained from the records of an affiliate of the universal bank that is engaged in the business of insurance, unless the person to whom the health information relates consents.

Investment Powers

Investment Securities. With certain exceptions described below, a universal bank would be authorized to purchase, sell, underwrite and hold investment securities, consistent with safe and sound banking practices, up to 100% of the universal bank's capital. A universal bank would not be permitted to invest greater than 20% of its capital in the investment securities of one obligor or issuer. For purposes of this provision, "investment securities" would include commercial paper, banker's acceptances, marketable securities in the form of bonds, notes, debentures and similar instruments that are regarded as investment securities.

Equity Securities. Subject to the same exceptions, a universal bank would also be authorized to purchase, sell, underwrite and hold equity securities, consistent with safe and sound banking practices, up to 20% of capital or, if approved by the Division in writing, a greater percentage of capital.

Exceptions to Securities Investment Powers. The UB Law would specify the following exceptions to the general powers of a universal bank to invest in investment and equity securities.

a. Housing Activities. With the prior written consent of DOB, a universal bank would be permitted to invest in the initial purchase and development, or the purchase or commitment to purchase after completion, of home sites and housing for sale or rental, including projects for the reconstruction, rehabilitation or rebuilding of residential properties to meet the minimum standards of health and occupancy prescribed for a local governmental unit, the provision of accommodations for retail stores, shops and other community services that were reasonably incident to that housing, or in the stock of a corporation that owned one or more of those projects and that was wholly owned by one or more financial institutions. The total investment in any one project could not exceed 15% of the universal bank's capital, nor could the aggregate investment under these provisions exceed 50% of capital. Under these provisions, a universal bank could not make an investment unless it was in compliance with the capital requirements set by DOB under the UB Law and with the capital maintenance requirements of its deposit insurance corporation.

b. Profit-Participation Projects. The UB Law would specify that a universal bank could take equity positions in profit-participation projects, including projects funded through loans from the universal bank, in an aggregate amount not to exceed 20% of capital. However, DOB could suspend the investment authority under this provision. If the Division suspended the investment authority, the Division could specify how outstanding investments in such projects would be treated by the universal bank or its subsidiary. Among the factors that the Division could consider in suspending authority under this provision are the universal bank's capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity and sensitivity to market risk and the ability of the universal bank's management. These provisions would not authorize a universal bank, directly or indirectly through a subsidiary, to engage in the business of underwriting insurance.

c. Debt Investments. In general, the UB Law would authorize a universal bank to invest in bonds, notes, obligations and liabilities as described under the UB Law with respect to loan powers, subject to the limitations under those provisions. However, the limits outlined in the section on loan powers would not apply to the following liabilities: (a) liabilities secured by certain short-term federal obligations; (b) certain federal and state obligations or guaranteed obligations; (c) Commodity Credit Corporation liabilities; (d) liabilities created by discounting bills of exchange or business or commercial paper; or (e) certain other federal or federally guaranteed obligations. Such liabilities are described in greater detail under the preceding provisions on loan powers.

Additional Investments. The UB Law would provide that a universal bank could invest without limitation in any of the following:

a. Stocks or obligations of a corporation organized for business development by this state or by the United States or by an agency of this state or the United States.

b. Obligations of an urban renewal investment corporation organized under the laws of this state or of the United States.

c. An equity interest in an insurance company or an insurance holding company organized to provide insurance for universal banks and for persons affiliated with universal banks, solely to the extent that this ownership was a prerequisite to obtaining directors' and officers' insurance or blanket bond insurance for the universal bank through the company.

d. Shares of stock, whether purchased or otherwise acquired, in a corporation acquiring, placing and operating remote service units of a savings banks or savings and loan association or for bank communications terminals.

e. Equity or debt securities or instruments of a service corporation subsidiary of the universal bank.

f. Advances of federal funds.

g. With the prior written approval of the Division, financial futures transactions, financial options transactions, forward commitments or other financial products for the purpose of reducing, hedging or otherwise managing the bank's interest rate risk exposure.

h. A subsidiary organized to exercise corporate fiduciary powers under state law.

i. An agricultural credit corporation. Unless a universal bank owned at least 80% of the stock of the agricultural credit corporation, a universal bank could not invest more than 20% of the universal bank's capital in the agricultural credit corporation.

j. Deposit accounts or insured obligations of any financial institution, the accounts of which are insured by a deposit insurance corporation.

k. Obligations of, or obligations that are fully guaranteed by, the United States and stocks or obligations of any federal reserve bank, federal home loan bank, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Deposit Insurance Corporation.

l. Any other investment authorized by DOB.

In addition to the authority granted under the UB Law on acquisitions, mergers and asset purchases and on stock in bank-owned banks, and subject to the provisions of the UB Law with

respect to equity securities, a universal bank would be authorized to invest in other financial institutions.

A universal bank would be permitted to make investments under the provisions outlined above, directly or indirectly through a subsidiary, unless DOB determined that an investment should be made through a subsidiary with appropriate safeguards to limit the risk exposure of the universal bank.

Universal Bank Purchase of its Own Stock

With certain exceptions, a universal bank could hold or purchase not more than 10% of its own capital stock, notes or debentures. However, a universal bank could exceed this limit if approved by DOB. In addition, a universal bank could hold or purchase more than 10% of its capital stock, notes or debentures if the purchase was necessary to prevent loss upon a debt previously contracted in good faith. Stock, notes or debentures held or purchased under this provision could not be held by the universal bank for more than six months if the securities could be sold for the amount of the claim of the universal bank against the holder of the debt previously contracted. The universal bank would be required to either sell the stock, notes or debentures within 12 months of acquisition under this provision or to cancel the stock, notes or debentures. Cancellation of the stock, notes or debentures would reduce the amount of the universal bank's capital stock, notes or debentures. If the reduction decreased the universal bank's capital below the minimum level required by DOB, the universal bank would have to increase its capital to the required amount.

A universal bank could not loan any part of its capital, surplus or deposits on its own capital stock, notes or debentures as collateral security, except that a universal bank would be allowed to make a loan secured by its own capital stock, notes or debentures to the same extent that the universal bank could make a loan secured by the capital stock, notes and debentures of a holding company for the universal bank.

Stock in Bank-Owned Banks

With the approval of DOB, a universal bank would be authorized to acquire and hold stock in one or more banks chartered under state statutes on bank-owned banks or national banks chartered under federal law or in one or more holding companies wholly owning such a bank. Aggregate investments under this provision could not exceed 10% of the universal bank's capital.

General Deposit Powers

The UB Law would provide that a universal bank could set eligibility requirements for, and establish the types and terms of, deposits that the universal bank could solicit and accept. The terms set under this provision could include minimum and maximum amounts that the

universal bank would be able to accept and the frequency and computation method of paying interest.

A universal bank would be allowed to pledge its assets as security for deposits, subject to the limitations under current law applicable to banks.

With the approval of DOB, a universal bank would be permitted to securitize its assets for sale to the public. The Division could establish procedures governing the exercise of authority granted under this provision.

A universal bank would be authorized to take and receive, from any individual or corporation for safekeeping and storage, gold and silver plate, jewelry, money, stocks, securities, and other valuables or personal property. A universal bank could also rent out the use of safes or other receptacles upon its premises. A universal bank would have a lien for its charges on any property taken or received by it for safekeeping. If the lien was not paid within two years from the date the lien accrued, or if property was not called for by the person depositing the property, or by his or her representative or assignee, within two years from the date the lien accrued, the universal bank could sell the property at public auction. A universal bank would be required to provide the same notice for a sale under this provision that is required for sales of personal property on execution. After retaining from the proceeds of the sale all of the liens and charges due the bank and the reasonable expenses of the sale, the universal bank would be required to pay the balance to the person depositing the property, or to his or her representative or assignee.

Other Service and Incidental Activity Powers

Unless otherwise prohibited or limited by the UB Law, a universal bank would be authorized to exercise all powers necessary or convenient to effect the purposes for which the universal bank was organized or to further the businesses in which the universal bank was lawfully engaged.

Reasonably Related and Incidental Activities. Subject to any applicable state or federal regulatory or licensing requirements, a universal bank could engage, directly or indirectly through a subsidiary, in activities reasonably related or incident to the purposes of the universal bank. Such activities would be those that are part of the business of financial institutions, or closely related to the business of financial institutions, or convenient and useful to the business of financial institutions, or reasonably related or incident to the operation of financial institutions or are financial in nature. Activities that would be considered reasonably related or incident to the purposes of a universal bank would specifically include the following:

1. Business and professional services;
2. Data processing;
3. Courier and messenger services;

4. Credit-related activities;
5. Consumer services;
6. Real estate-related services, including real estate brokerage services;
7. Insurance and related services, other than insurance underwriting;
8. Securities brokerage;
9. Investment advice;
10. Securities and bond underwriting;
11. Mutual fund activities;
12. Financial consulting;
13. Tax planning and preparation;
14. Community development and charitable activities;
15. Debt cancellation contracts;
16. Any activities reasonably related or incident to activities on the list above as determined by rule of DOB;
17. An activity that is authorized by statute or regulation for financial institutions to engage in as of the effective date of this provision (the first day of the third month beginning after publication of the bill); and
18. An activity permitted under the Bank Holding Company Act.

In addition, DOB would be authorized to expand, by rule, the list of activities reasonably related or incident to the purposes of a universal bank. Any additional activity approved by the Division would be authorized for all universal banks.

A universal bank would be required to give 60 days' prior written notice to DOB of the universal bank's intention to engage in an activity under these provisions.

Standards for Denial. DOB would be permitted to deny the authority of a universal bank to engage in an activity under these provisions, other than the first 15 activities listed above, if the Division determined any of the following: (a) that the activity was not an activity reasonably related or incident to the purposes of a universal bank; (b) that the universal bank was not well-capitalized; (c) that the universal bank was the subject of an enforcement action; or (d) that the universal bank did not have satisfactory management expertise for the proposed activity.

Insurance Intermediation. A universal bank, or an officer or salaried employee of a universal bank, would be permitted to obtain a license as an insurance intermediary, if otherwise qualified. A universal bank could not, directly or indirectly through a subsidiary, engage in the business of underwriting insurance.

Activities Approved by DOB. A universal bank would be authorized to engage in any other activity that was approved by rule of DOB. In addition, a universal bank could engage in activities under these provisions, directly or indirectly through a subsidiary, unless the Division determined that an activity had to be conducted through a subsidiary with appropriate safeguards to limit the risk exposure of the universal bank.

Activities Provided Through a Subsidiary. The amount of the investment in any one subsidiary that engaged in an activity under these provisions could not exceed 20% of capital or a higher percentage if approved by DOB. The aggregate investment in all subsidiaries that engaged in an activity under this provision could not exceed 50% of capital or a higher percentage authorized by the Division. A subsidiary that engaged in an activity under these provisions could be owned jointly, with one or more other financial institutions, individuals or entities.

Trust Powers

Subject to rules of DOB, a universal bank would be permitted to exercise trust powers in accordance with such authority granted by the statutes to state banks.

Rule-Making

DOB would be permitted to establish a rule specifying activities that are related to or incident to the purposes of a universal bank without complying with the notice, hearing and publication procedures under Chapter 227. The Division would be required to file the rule with the Secretary of State and the Revisor of Statutes, as generally required under Chapter 227. At the time of filing, DOB would be required to mail a copy of the rule to the chief clerk of each house and to each member of the Legislature. In addition, DOB would be required to publish a class 1 notice containing a copy of the rule in the official state newspaper and take any other step it considers feasible to make the rule known to persons who will be affected by it.

For other rules related to the UB Law, DOB would be allowed to use the emergency rule-making procedures to promulgate rules for the period before permanent rules became effective. However, DOB would not be required to provide evidence of an emergency.

Effective Date

These provisions would take effect on the first day of the third month beginning after publication of the bill.

Senate/Legislature: Delete provision.

4. CREDIT AND DEBIT CARD PRIVACY

Senate/Legislature: Incorporate the provisions of 2001 Senate Bill 365, which would prohibit a person who sells goods at retail or who sells services from including certain information on a sales receipt if the receipt is for a purchase made with the use of a credit or debit card. The proposal would prohibit the seller from including more than five digits of the

credit or debit card number on the receipt. These restrictions would not apply if the receipt is handwritten or if it is manually prepared by making an imprint of a credit or debit card.

Under the proposal, "credit card" would mean any card, plate, merchandise certificate, letter of credit, coupon book or other like credit device existing for the purpose of obtaining money, property, labor or services on credit pursuant to an open-end credit plan. "Debit card" would mean any plastic card or similar device that may be used to purchase goods or services by providing the purchaser with direct access to the purchaser's account at a bank, savings bank, savings and loan association or credit union.

The proposal would take effect on the first day of the 37th month beginning after publication of the bill.

[Act 109 Section: 313g]

5. FREE CREDIT REPORT AND REQUIRED CONTENT OF A REPORT

Senate: Incorporate the provisions of 2001 Senate Bill 135, as amended by Senate Amendment 1, which would require a credit reporting agency, upon written request, to provide one free written disclosure report to a consumer per year. The report would have to be provided within five business days after receiving the written request. It would not have to be provided free of charge if the individual had requested a written disclosure report from the consumer reporting agency during the preceding 12 months. Under current law, an agency may charge up to $8 for the disclosure unless the consumer's request is pursuant to a denial of credit or to a notice that the consumer's credit may be adversely affected.

Under the proposal, the report provided would have to contain all of the following: (a) a current consumer report pertaining to the individual; (b) the date of each request for credit information pertaining to the individual received by the consumer reporting agency during the 12 months before the date that the consumer reporting agency provides the written disclosure report; (c) the name of each person requesting credit information pertaining to the individual during the 12 months before the date that the consumer reporting agency provides the written disclosure report; (d) the dates, original payees, and amounts of any checks upon which any adverse characterization of the consumer is based; (e) any other information contained in the individual's file; (f) a clear and concise explanation of the contents of the written disclosure report; and (g) a summary of rights.

Under the proposal, a consumer reporting agency could not disclose to an individual making a request for a credit report: (a) the sources of any information that was both acquired solely for use in preparing an investigative consumer report and used for no other purpose; or (b) any credit score or other risk score or predictor relating to the consumer.

Penalties for violating these provisions would be: (a) for the first offense, a fine of not more than $500; and (b) for each subsequent offense occurring within six months, a fine of not more than $1,000, imprisonment for not more than six months or both.

Wisconsin law currently does not specifically regulate the disclosure of credit reports to consumers by a credit reporting agency. However, under current federal law, an agency must provide a consumer with five pieces of information upon request: (a) all nonmedical information contained in the agency's files on the consumer; (b) the sources of that information; (c) the recipients of any credit report concerning the consumer; (d) information regarding any checks that form the basis of an adverse characterization of the consumer; and (e) a record of certain inquiries received by the agency that identified the consumer. Generally, unless the consumer's request is pursuant to a denial of credit or to a notice that the consumer's credit may be adversely affected, the agency may charge up to $8 for this disclosure. In certain circumstances, federal law prohibits an agency from disclosing the sources of information in a consumer's file.

Conference Committee/Legislature: Delete provision.

6. UNIFORM COMMERCIAL CODE (UCC) ARTICLE 9 REVISIONS

Senate: Incorporate the provisions of 2001 Senate Bill 372, as amended by Senate Amendment 1, which would make changes regarding the recording and filing of UCC Article 9-related documents with the county offices of registers of deeds and with the Department of Financial Institutions, as outlined below. Article 9 of the UCC governs transactions that involve the granting of credit secured by personal property of a debtor, allowing the creditor to take the property if the debtor defaults on the debt.

This proposal would make the changes indicated below regarding the filing of Article 9-related documents.

a. Documents pertaining to security interests that are filed with the offices of registers of deeds would be required to meet most of the format and legibility standards for documents recorded with the offices.

b. Documents related to security interests and certain other records that are filed with the offices of registers of deeds would be indexed in the real estate records index, rather than indexed in books.

c. The proposal would clarify which documents would be recorded and filed with the offices of registers of deeds and which would be filed with DFI.

d. The proposal would modify county land recording fees and cooperative contract fees imposed by registers of deeds. Effective September 1, 2003, the fee for recording or filing the first page of such documents would be reduced from $11 to $8. It is estimated that this change would result in decreased general county revenues of $2.9 million in 2003-04 and $3.9 million in 2004-05.

e. The fee charged by registers of deeds for filing notices of federal tax liens on real estate would also be modified. The current fee is $10. Under this proposal, the fee would be $11 for the first page and $2 for each additional page prior to September 1, 2003. On that date, the fee for the first page would be decreased to $8 if the county maintains a land information office or to $4 if the county does not maintain such an office. In addition, these fees would apply to amendments of federal tax liens on real estate.

f. Only DFI, not the offices of registers of deeds, when assigning a file number for a document pertaining to security interests, would be required to include a digit that is mathematically derived from or related to the other digits of the file number and aid the filing office in determining whether a number communicated as the file number includes a single–digit or transpositional error.

g. Only DFI, not the offices of registers of deeds, would be required to provide results of searches of its records for financing statements filed in its filing system.

h. The current requirement that the DFI and the offices of registers of deeds enter all information regarding filings under the provisions of the UCC relating to security interests into the statewide lien system would be eliminated.

i. The proposal would expand the discharge of subordinate security interests or other subordinate liens that is brought about by a secured party's disposition of collateral after default by including liens held by the state or a unit of local government in the discharge. Current law excludes such liens from discharge brought about by a secured party's disposition of collateral.

j. The current requirement that the statewide lien system be maintained would be eliminated, effective July 1, 2008.

Conference Committee/Legislature: Delete provision.

GENERAL FUND TAXES

1. INTERNAL REVENUE CODE UPDATE [LFB Paper 1150]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-REV	- $33,000,000	$100,000	$4,950,000	- $27,950,000

Governor: Update state tax references to the federal Internal Revenue Code (IRC) in order to conform to federal law changes enacted through December 31, 2001, with one exception. Provide that the changes would apply for Wisconsin purposes at the same time as for federal purposes.

Under current law, references to the IRC generally refer to the code in effect on December 31, 1999. These provisions would update state references to federal provisions enacted in 2000 and 2001, including those adopted under the Economic Growth and Tax Relief Reconciliation Act (EGTRRA). [EGTRRA was the major federal tax legislation that was adopted in June, 2001]. The bill would adopt all of the provisions in the federal acts with the exception of a provision under EGTRRA that provides a federal individual income tax deduction for qualified higher education expenses. [Wisconsin currently provides a deduction for tuition expenses at the state's higher education institutions.]

These provisions would reduce state tax collections by an estimated $8,550,000 in 2001-02 and $24,450,000 in 2002-03. The following table provides a summary of the items that are estimated to have an impact on state revenues.

Summary of Federal Law Changes with Substantive Fiscal Effects

	2001-02	2002-03
Individual Income Tax		
Expansion of Employer Adoption Assistance Exclusion	-$50,000	-$200,000
Increased Contributions to IRAs	-2,250,000	-5,950,000
Increase in Alternative Minimum Tax Exemption	Minimal	-200,000
Educational Assistance Programs	-2,700,000	-4,650,000
Education IRAs	-1,050,000	-2,250,000
Student Loan Interest Deduction	-900,000	-1,550,000
Individual Total	-$6,950,000	-$14,800,000
Corporate and Business Taxes		
Repeal of Distance Requirements for Qualified Conservation Easements	Minimal	-$100,000
Environmental Remediation Costs	Minimal	-1,250,000
Corporate Donations of Computer Technology	Minimal	-1,100,000
Duplication or Acceleration of Loss Through Assumption of Certain Liabilities	Minimal	200,000
Foreign Sales Corporations	Minimal	-2,800,000
Corporate and Business Total	Minimal	-$5,050,000
Pension Provisions		
Increase in Contribution Limits	-$400,000	-$1,500,000
Benefit Limits Under Qualified Plans	-100,000	-250,000
Catch-Up Contributions	-500,000	-1,200,000
Increases in Defined Contribution Plan Limit	-200,000	-400,000
Repeal of Coordination Requirements for Section 457 Plan Limits	-50,000	-150,000
Increase in Employer Deduction Limits	Minimal	-100,000
Exclusion of Elective Deferrals in Determination of Deduction Limits	-200,000	-400,000
Treatment of Contributions to a Multi-Employer Plan	Minimal	-50,000
Repeal of the 160% Current Liability Funding Limit	-50,000	-100,000
Plan Loans for Small Business Owners	-100,000	-150,000
Rollovers to and from Governmental Plans and Tax-Sheltered Annuities	100,000	Minimal
Reinvestment of ESOP Dividends	-100,000	-250,000
Modification of Top-Heavy Rules	Minimal	-50,000
Pension Provisions Total	-$1,600,000	-$4,600,000
IRC Update Total	-$8,550,000	-$24,450,000

Joint Finance: Reduce the estimated revenue loss of the Governor's proposal by $100,000 in 2002-03 to reflect the administration's intended estimate. [The estimates under the bill included a cost of $100,000 in 2002-03 for the "Repeal of Distance Requirements for Qualified Conservation Easements," (which is the first entry in the table under the "Corporate and Business Taxes"). However, this item relates to an exclusion for estate tax purposes only and does not need to be considered under these provisions.]

In addition, delete current law provisions that permit taxpayers to compute amortization or depreciation under the federal Internal Revenue Code in effect for the tax year for which the

return is filed and provide that federal amortization and depreciation provisions could be adopted for state tax purposes only after action by the Legislature.

Assembly: Adopt the IRC update as provided by the Governor and amended by the Joint Committee on Finance. Include a technical provision that clarifies that depreciation provisions included in the federal stimulus package would only be adopted for state purposes after action by the Legislature.

In addition, specify that the individual income tax treatment of contributions to a medical savings account (MSA) for state tax purposes would be automatically updated to changes in federal law.

The MSA program is a program under which self-employed individuals and employees of small firms (firms with 50 or fewer employees) can take advantage of medical savings accounts to pay for health care expenses. Simultaneous enrollment in a high-deductible health care plan is a requirement for participation in an MSA. Under federal law, contributions by an employer to an MSA are excluded from the employee's gross income and contributions by the employee may be deducted from income. Distributions from an MSA are excluded from income if expended for qualified medical costs. Certain limits to contributions and to total program participation apply.

The federal government started the MSA program as a pilot project, designed to operate from 1997 through 2000 (after which additional contributions were to be limited to existing participants). State tax references to the IRC were updated to comply with the federal provisions for the new program.

In 2000, the federal government extended the program through 2002 and renamed the accounts "Archer MSAs." These changes are included in the IRC update in the substitute amendment passed by the Joint Committee on Finance. (The provisions are not included in the table summarizing the federal law changes because they are expected to have a minimal fiscal effect.)

On March 9, 2002, the federal government extended Archer MSAs for an additional year. As introduced by the Governor and approved by the Joint Committee on Finance, the IRC update would not include this extension of MSA's through 2003. Under current law, such a change would be considered as part of a future IRC update. Under the Assembly provisions, MSAs would automatically be updated to include this change in federal law as well as any future changes with respect to MSAs.

Senate: With the exceptions described below, adopt the IRC update as introduced by the Governor and amended by the Joint Committee on Finance. In addition, include a technical provision that clarifies that depreciation provisions included in the federal stimulus package

would only be adopted for state purposes after action by the Legislature. (This technical provision was also included in the IRC update as amended by the Assembly.)

The Senate provision would delete the following provisions from the IRC update approved by the Joint Finance Committee: (a) provisions that would update state tax references to the IRC with respect to Archer MSAs; and (b) provisions that would update state tax references to the IRC with respect to corporate and business taxes.

Archer MSAs. In 2000, the federal government extended the MSA pilot program through 2002 (as described under the Assembly provisions, above). These changes are included in the IRC update proposals of the Governor and the Committee. The Senate amendment would remove the MSA provisions from those to be included in the IRC update. As a result, for MSAs established after December 31, 2000, there would be no state income tax deduction for contributions by an employee to an MSA or for earnings on an MSA account. Contributions by an employer to such an MSA on behalf on an employee would be includable in the employee's gross income. However, as provided under current law (based on references to the IRC in effect on December 31, 1999), the state tax benefits would still apply in relation to MSAs existing prior to January 1, 2001. The fiscal effect of this provision is expected to be minimal.

Corporate and Business Tax Provisions. Delete the provisions that would update state corporate and business tax references to federal law changes enacted through December 31, 2001, and increase estimated general fund tax revenues by $4,950,000 to reflect the changes. [For a summary of those items that were estimated to have an impact on state revenues, refer to the table under "Governor," above. The estimated cost of including the corporate and business tax provisions in the IRC update, as shown in the table, differs from the estimated savings from excluding these provisions by $100,000, as the result of a reestimate to the Governor's provisions that is described under "Joint Finance," above.]

Conference Committee/Legislature: Adopt the IRC update as amended by the Senate, with the exception of the provisions that would have removed the MSA provisions from those to be included in the IRC update. Under these provisions, state tax references to the IRC with respect to MSAs would be updated, which would have the effect of extending the pilot program and associated tax benefits through tax year 2002.

As compared to the Joint Finance Committee, the Conference Committee provisions would increase general fund tax revenues by an estimated $4,950,000 in 2002-03, as a result of deleting the provisions that would have updated corporate and business tax references to the IRC.

[Act 109 Sections: 158 thru 169(b), 171 thru 230(b), 9144(1) and 9344(1b)]

2. SALES FACTOR OF APPORTIONMENT FORMULA

Joint Finance: Starting with tax years beginning on or after January 1, 2004, increase the sales factor to represent 55% of the apportionment formula used under the state income and franchise tax to apportion the income of corporations (including insurance companies, financial institutions, and gas, electric and telecommunications utilities), nonresidential individuals, and estates and trusts. Decrease the payroll and property factors to each represent 22.5% of the apportionment formula. There would be no fiscal effect in the current biennium. However, it is estimated that state income and franchise tax revenues would be reduced by $4.0 million in 2003-04 and $8.8 million annually thereafter.

Senate/Legislature: Delete provision.

3. MINNESOTA-WISCONSIN INCOME TAX RECIPROCITY

GPR	$5,500,000

Conference Committee/Legislature: Authorize payments of interest to the State of Minnesota in association with the payment Wisconsin makes to Minnesota under the individual income tax reciprocity agreement between the two states, for tax years beginning after December 31, 2000. Specify that interest would be calculated according to current Minnesota law or at another rate and method of calculation agreed to by both states. Provide $5,500,000 in 2002-03 in the sum sufficient appropriation for Minnesota income tax reciprocity for the interest payment related to tax year 2001.

Under the tax reciprocity agreement, taxpayers who live in one of the two states and work in the other state are only required to file a return and pay taxes in the state of legal residence. As a result, Wisconsin foregoes tax revenue from residents of Minnesota who work here and Minnesota foregoes tax revenue from Wisconsin residents who work in Minnesota. On an annual basis, in December, Wisconsin reimburses Minnesota for the estimated amount of net foregone tax revenues to Minnesota in the prior year [which results in large part because more people live in Wisconsin and work in Minnesota (approximately 50,000) than vice versa (approximately 25,000), so Minnesota loses more tax revenue by not collecting it directly from Wisconsin residents].

The income tax reciprocity agreement is open-ended and may be unilaterally terminated by either state. Prior to recent Minnesota law changes (described below), Minnesota statutes tied higher education reciprocity payments under a higher education reciprocity agreement with Wisconsin to the existence of income tax reciprocity.

Under the existing agreement, Minnesota receives a payment from Wisconsin annually in December, representing the estimated net tax revenue foregone by Minnesota for the previous tax year. Under current law, the payment due in December, 2002, for tax year 2001, is estimated at $49.3 million.

Under new provisions adopted by Minnesota as part of the state's budget adjustment bill, Wisconsin would have to pay interest associated with the reciprocity payment described above. These provisions specify that, if Wisconsin were to agree to the new terms, interest would accrue from July 1 of the taxable year through the date of payment in December of the following year. The provisions also specify that the applicable interest rate would be the same as the rate imposed by Minnesota for delinquent tax payments. [The rate that applies to delinquent tax payments is determined annually, based on the adjusted prime rate charged by banks during the six-month period ending September 30 of the previous year.] According to Minnesota officials, the applicable rate for the tax year 2001 payment would be 9% for the period of July through December, 2001, and 7% for the period of January through the payment date in mid-December, 2002.

Minnesota's new law provides that income tax reciprocity with Wisconsin will be terminated for taxable years beginning after December 31, 2002, unless Wisconsin agrees by October 1, 2002, in writing, that interest will be included in the reciprocity payments as described above. In the event that Wisconsin were not to agree to the new terms and income tax reciprocity between the two states were terminated, the new Minnesota provisions specify that the requirement under prior Minnesota law that income tax reciprocity be in effect as a condition for a higher education reciprocity agreement would be suspended through the 2003-04 school year.

Based on information provided by Minnesota about the effects of the new provisions, it is estimated that the cost to Wisconsin of complying with Minnesota's terms would be $5.5 million in 2002-03. The annual cost in subsequent years would vary with the estimate of taxes foregone by Minnesota and the applicable interest rate, but would likely be approximately $5 million per year.

If Wisconsin chose not to comply with the new Minnesota law, then the Minnesota-Wisconsin income tax reciprocity agreement would be terminated, beginning with tax year 2003. In this case, Wisconsin would stop withholding tax from Wisconsin residents working in Minnesota and begin to withhold tax on earnings of Minnesota residents working in Wisconsin. Based on preliminary information from the Wisconsin Department of Revenue, the change would reduce Wisconsin income tax collections in 2002-03 by an estimated $27.5 million. In 2003-04, the cost to Wisconsin would be greater as there would be the loss in tax revenues as well as the December, 2003, payment to Minnesota for calendar year 2002. The Department estimates a net loss for 2003-04 of $56.5 million. However, for 2004-05 and thereafter, the annual decrease in Wisconsin's withholding payment receipts would be balanced by the elimination of the annual reconciliation payment to Minnesota.

[Act 109 Section: 170v]

4. EARNED INCOME TAX CREDIT [LFB Paper 1151]

GPR	- $2,960,000
FED	2,960,000
PR	2,960,000
Total	$2,960,000

Joint Finance/Legislature: Utilize temporary assistance for needy families (TANF) funding for the eligible portion of the projected increase in the cost of the earned income tax credit (EITC) in 2002-03 by providing $2,960,000 in additional TANF funds in 2002-03 and reducing estimated GPR expenditures by the same amount. The TANF funds are budgeted as FED in DWD and also as PR-S under Shared Revenue and Tax Relief.

The state EITC is funded with a combination of TANF revenue and state GPR. The TANF funds are provided through an annual, sum-certain appropriation that is set to equal approximately 80% of the credit's total cost. The GPR share is provided through a sum sufficient appropriation that covers the portion of the credit not funded with TANF. Due to recent federal law changes, the cost of the EITC was reestimated in January, 2002, to be $3,700,000 higher than the Act 16 estimate. In the absence of legislative action to increase the TANF appropriation, the general fund would bear all of these increased costs. This provision would increase the TANF appropriation for the EITC by $2,960,000 in 2002-03 (80% of the $3,700,000 cost increase) and reduce estimated GPR expenditures for the credit by the same amount.

[Act 109 Sections: 119(m), 9258(12q) and 9259(9q)]

5. WISCONSIN ELECTION CAMPAIGN FUND CHECKOFF

Conference Committee/Legislature: Modify the Wisconsin Election Campaign Fund (WECF) checkoff, as part of a larger package of campaign finance provisions. [This entry summarizes changes involving the checkoff only. The entire package is described under "Campaign Finance Provisions" in the section of this document on the Elections Board.]

Current Law. The WECF is a segregated fund. Currently, the fund is primarily supported through a voluntary $1 income tax check-off ($1 or $2 on joint returns) made by Wisconsin taxpayers that does not affect the amount of tax liability or tax refund. Since the check-off does not affect taxpayer liability, the amount generated from the check-off is transferred to the WECF from a sum sufficient GPR appropriation, currently estimated at $325,000 GPR annually. The amount of the transfer, plus all investment earnings and any additional gifts or donations, are available for public campaign grants to eligible candidates for the offices of: (a) Governor; (b) Lieutenant Governor; (c) Attorney General; (d) Secretary of State; (e) State Treasurer; (f) Supreme Court Justice; (g) Superintendent of Public Instruction; (h) Senator; and (i) Representative.

Modifications. Modify the existing WECF checkoff by: (a) limiting the designation to taxpayers who are full-year residents; and (b) increasing the amount of the designation to the

lesser of $20 or the taxpayer's tax liability prior to making such a designation. In the case of a joint return, allow each spouse to make a designation of the lesser of $20 or one-half of the couple's total tax liability prior to making a WECF designation. Require an individual making the designation to indicate whether it is to be placed in a general account for the use of all eligible candidates for state office or in the account of an eligible political party. Provide that, in the event that a taxpayer made a designation but failed to identify the intended account, the amount would be placed in the general account.

In addition, provide a campaign fund tax credit equal to the designation described above. Specify that certain administrative provisions that apply to other credits would also apply to the campaign fund tax credit. Provide that the credit would not be taken into account for purposes of determining the alternative minimum tax.

Require DOR to: (a) ensure that space is provided on the face of the individual income tax return for a taxpayer to make the WECF designation and to claim the WECF credit; and (b) make both the designation and the credit claimable by checking one box. Also require the Department to state next to the box for the designation and credit that: (a) a designation will increase tax liability; (b) the amount designated may be claimed as a credit against taxes; and (c) by making the designation, the individual is also claiming the credit. In addition, require DOR to highlight in the instructions for the tax returns certain information submitted by the Elections Board about the purpose and uses of the designation (at no cost to the Board).

Change the current law requirement that DOR certify the total amount of designations made in the preceding year (as described above under "Current Law") to a requirement that DOR certify the total amount made on returns processed during the preceding fiscal year. Also require the Department to separately identify the amounts designated for the general account and for the account of each eligible political party. Specify that, if a taxpayer designated an amount greater than the authorized amount, the taxpayer would be deemed not to have made a designation. As under current law, the designation would also be considered void if the taxpayer attempted to place any additional conditions or restrictions upon it.

Provide that, in the case of an individual who does not make a designation and whose tax return is prepared by a paid tax preparer, the tax preparer would be required to present the taxpayer with a form (prepared by DOR with information on the purposes of the designation) to sign acknowledging the taxpayer's choice not to make the designation. No penalty for noncompliance by the tax preparer is provided.

Specify that the WECF checkoff provisions would first apply to tax returns filed for calendar year 2002.

As a taxpayer's initial increase in liability from making a designation would be offset by the campaign fund tax credit and the total amount generated from the check-off would be

transferred to the WECF from a sum sufficient GPR appropriation, these provisions would have no effect on state revenues from the individual income tax.

[Act 109 Sections: 170mj thru 170t and 9344(2v)]

6. TAX DEDUCTION FOR COLLEGE SAVINGS PROGRAMS

Assembly: Extend to grandparents the individual income tax deduction for certain contributions to college savings programs currently available to parents as provided under Senate Substitute Amendment 1 to 2001 Senate Bill 131. In addition, clarify that the total deduction for contributions to the two available types of college savings programs would be limited to $3,000 per beneficiary per year for single taxpayers and for married couples filing joint tax returns.

Currently, the state's EdVest program offers two college savings options that meet federal standards for a qualified state tuition program: (a) the college tuition and expenses program, managed by the State of Wisconsin Investment Board, under which individuals may purchase "tuition units" for a designated beneficiary; and (b) the college savings account program, managed by an 11-member College Savings Program Board, under which individuals contribute to a college savings account for a designated beneficiary (rather than purchasing tuition units). Earnings on EdVest investments and distributions for qualified purposes are tax-free at both the federal and state levels.

In addition, effective January 1, 2001, donors may deduct (for state tax purposes) up to $3,000 in contributions to an EdVest account if the beneficiary is the purchaser, the purchaser's spouse or the purchaser's dependent child. Currently, such donors are permitted to deduct up to $3,000 in contributions to a college tuition and expenses program as well as to a college savings account (for a combined maximum deduction of $6,000 for a designated beneficiary). For taxpayers eligible for the deductions, the new provisions would limit the combined total deduction to $3,000 per beneficiary for contributions to the two programs (for a single taxpayer as well as for a married couple filing a joint return). The provisions would also extend the deduction to grandparents.

It is anticipated that any reduction in state tax revenues from providing an income tax deduction for grandparents would be partially or completely offset by clarifying that taxpayers would be limited to a total deduction of $3,000 per beneficiary per year. Therefore, it is not expected that these provisions would have a significant effect on state tax revenues.

These provisions would first apply to taxable years beginning on January 1 of the year in which the bill generally takes effect, unless the bill's general effective date is after July 31. In that case, the provisions would first apply to taxable years beginning January 1 of the following year.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 170L thru 170Le and 9344(5f)]

GPR-REV	$200,000

7. SALES TAX ON MOBILE TELECOMMUNICATIONS SERVICES AND CLARIFICATION OF SALES TAX PROVISIONS FOR PREPAID TELEPHONE CALLING CARDS

Assembly: Modify the treatment of mobile telecommunications services to bring Wisconsin sales tax statutes into conformance with the federal Mobile Telecommunications Sourcing Act.

Mobile Telecommunications Services

Under current law, the sale of a mobile telecommunications service, such as the use of a cellular telephone, is subject to the sales tax if: (a) the service either originates or terminates in Wisconsin; and (b) the sale is charged to a service address in this state. For example, a call placed via cell phone by a Wisconsin resident from a neighboring state to a non-Wisconsin destination would not be taxable because the call did not originate or terminate in Wisconsin.

This proposal provides that, for customer bills issued after August 1, 2002, mobile telecommunications services would be subject to the sale tax if the customer's place of primary use of the service is in Wisconsin, regardless of where the service originates of terminates. This change would bring Wisconsin's sales and use tax statutes into conformance with federal laws regarding the sourcing of mobile telecommunications services [4 USC 116 to 126], as amended by P.L. 106-252, the federal Mobile Telecommunications Sourcing Act, by incorporating the provisions of these portions of federal law, as amended, into state law. Under this proposal, the tax rate on mobile telecommunications services would remain unaffected; only the provisions regarding which jurisdiction has the authority to tax such services would change. Under these provisions, a call placed via cell phone by a Wisconsin resident from Illinois to California, for example, would be taxable because the call would be sourced to the Wisconsin resident's designated address. Should P.L. 106-252 or its application be found unconstitutional, the sale of mobile telecommunications services would be subject to the sales tax under current state law.

Provisions Regarding Billing Errors and Refunds

Under this proposal, if a customer purchases a service that falls under the Mobile Telecommunications Sourcing Act and if the customer believes that the amount of the tax assessed for the service or the place of primary use or taxing jurisdiction assigned to the service is erroneous, the customer could request the service provider to correct the alleged error by sending a written notice to that provider. The notice would have to include a description of the

alleged error, the street address for the customer's place of primary use of the service, the account name and number of the service for which the customer seeks a correction, and any other information that the service provider would reasonably require to process the request.

Within 60 days from the date that a service provider received such a request, the provider would be required to review its records. If the review revealed no error, the service provider would be required to explain the findings of the review in writing to the customer. If the review indicated that an error had occurred as alleged, the service provider would be required to correct the error and refund or credit the amount of any tax collected erroneously in the previous 48 months as a result of the error, along with related interest. In addition, the provider would be required to forfeit to DOR any part of a refund not returned to the customer along with a penalty of 25% of the amount not returned or, in the case of fraud, a penalty equal to the amount not returned. Under the refund provisions, the customer would be allowed to take no other action to correct an alleged error in the amount of tax assessed for a mobile telecommunications service or to correct an alleged error in the assigned place of primary use or taxing jurisdiction unless the customer had exhausted his or her remedies as provided above.

Prepaid Telephone Calling Cards

Under current law as interpreted by the Department of Revenue, telephone services obtained by using a prepaid telephone calling card are exempt from the sales and use tax if sales or use tax was paid on the purchase of the prepaid calling card. This proposal would clarify current law by creating a specific sales and use tax exemption for telecommunications services obtained by using a prepaid telephone calling card if sales or use tax was paid on purchase of the card.

Fiscal Effect

With the aforementioned August 1, 2002, effective date, it is estimated that adoption of the provisions relating to mobile telecommunications services would result in increased general fund revenues of approximately $200,000 in state fiscal year 2002-03 and additional revenues of approximately $250,000 annually thereafter. The modification regarding prepaid calling cards would clarify current law, and, therefore, have no fiscal effect.

Senate: Include provisions similar to those of the Assembly, except delete the provisions regarding billing errors and refunds. As under the Assembly provision, the fiscal effect is an estimated increase in sales tax revenues of $200,000 in 2002-03 and $250,000 annually thereafter.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 233b thru 233f, 233fg, 233fh, 233j, 233k and 9344(1f)]

8. SALES TAX EXEMPTION CERTIFICATE FOR LIVESTOCK

Assembly: Provide that a sales tax exemption certificate would not be required for sales of cattle, sheep, goats and pigs that are sold at a livestock market. Specify that this provision would take effect on the first day of the second month beginning after publication of the bill.

Under current law, sales of livestock are exempt from the sales tax if the animals are used by the purchaser in the business of farming. Current law also specifies that the burden of proving that a sale of tangible personal property is not a taxable sale at retail is upon the seller unless the seller takes from the purchaser an exemption certificate issued by the Department of Revenue stating that the property is purchased for resale or otherwise exempt. This provision would eliminate the requirement for an exemption certificate for sales of certain animals at a livestock market and would relieve the seller of the burden of proving that the sale is not subject to tax. Similar treatment is provided under current law for certain sales of commodities.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 233fe, 233g and 9444(1c)]

9. TWO-THIRDS MAJORITY VOTE FOR TAX INCREASES

Assembly: Modify the statutes to require the approval of two-thirds of the members present in order to pass, in either house of the Legislature, any law that would result in a net increase in revenues from state sales taxes, income taxes or franchise taxes.

Senate/Legislature: Delete provision.

10. DIRECT MARKETING OF CIGARETTES AND TOBACCO PRODUCTS

Senate: Create new statutory provisions and change existing statutes to permit and regulate the sale of cigarettes and other tobacco products through direct marketing activities, including over the internet.

Municipal Retail License Requirement

Under current law, no person may sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license or permit for the sale of cigarettes without first obtaining a license from the clerk of the city, village or town wherein such privilege is sought to be exercised. The proposal would provide that

direct marketers who have obtained a permit from the Department of Revenue (DOR) and whose business premises is not physically located in Wisconsin could sell cigarettes and tobacco products in Wisconsin without obtaining a municipal retailer's license.

Under current law, any person violating the requirement to obtain a municipal license under this provision is subject to a fine of $25 to $100 for a first offense and a fine of $25 to $200 for a second or subsequent offense. If upon such second or subsequent violation, the person was personally guilty of a failure to exercise due care to prevent the violation, the person is subject to a fine of $25 to $300, imprisonment for up to 60 days or both.

The proposal would modify this provision by increasing the penalty for a first offense to a fine of $500 to $1,000 and by increasing the penalty for a second or subsequent offense to a fine of $1,000 to $5,000, imprisonment for up to 180 days or both. In addition, the proposal would delete the current provision that imposes additional penalties for individuals who are guilty of failing to exercise due care to avoid a second or subsequent violation.

Current law also provides that the municipality must terminate the license of any person who is convicted of being personally guilty of a failure to exercise due care to prevent the violation for a period of five years, during which the person may not act as the servant or agent of a licensed cigarette or tobacco products retailer for the performance of acts authorized by the license. The proposal would make this provision apply only to second or subsequent convictions.

The proposal would also specify that a municipality could not issue a retailer's license to any person who: (a) has an arrest record or conviction record (subject to nondiscrimination provisions); (b) has been convicted of a felony, or as a repeat or habitual offender, unless pardoned (also subject to nondiscrimination provisions); or (c) has not submitted proof that the person holds a sales tax seller's permit or that DOR will issue a seller's permit to the person. These new requirements would apply to all partners of a partnership, all members and agents of a limited liability company (LLC) and all officers and agents of a corporation. Subject to nondiscrimination provisions, if a business entity has been convicted of a crime, the entity could not be issued a license unless the entity has terminated its relationship with the individuals whose actions directly contributed to the conviction

Direct Marketing Of Cigarettes

The proposal would create new provisions in the cigarette tax statutes (Chapter 139) regarding direct marketing of cigarettes:

"Consumer" would mean any individual who receives cigarettes for his or her own personal use or consumption and any individual who has title to or possession of cigarettes for other than sale or resale.

"Direct marketer" would mean any person who solicits or sells cigarettes to consumers in Wisconsin by direct marketing. "Direct marketing" would mean publishing or making accessible an offer for the sale of cigarettes to consumers in this state, or selling cigarettes to consumers in this state, using any means by which the consumer is not physically present at the time of sale on a premise that sells cigarettes.

Under the current cigarette tax statutes, "distributor" means any person who acquires unstamped cigarettes from the manufacturer thereof, affixes tax stamps to the packages or other containers, stores them and sells them for resale or who acquires stamped cigarettes from another permittee for such sales. The proposal would modify this definition to also include a person who acquires unstamped cigarettes for resale from the first importer of record of the cigarettes. In addition, it provides that the definition would allow any distributor to acquire stamped cigarettes from another distributor (rather than from another permittee) for resale.

"Person" would mean any individual, sole proprietorship, partnership, LLC, corporation, or association, or any owner of a single-owner entity that is disregarded as a separate entity under state income tax provisions. Under current law, the general definition of "person" in the statutes includes all partnerships, associations and bodies politic or corporate.

The proposal would modify the current definition of "retailer" in the cigarette tax statutes to clarify that a retailer would not be considered a direct marketer by providing that "retailer" would mean any person who sold, exposed for sale or possessed with intent to sell to consumers any cigarettes by any means in which the consumer were physically present at the time of sale on a premises that sold cigarettes. The current definition does not contain any reference to the person being physically present at the time of sale on a premises that sells cigarettes.

The proposal specifies that no person could sell cigarettes to consumers in this state as a direct marketer or solicit sales of cigarettes to consumers in this state by direct marketing unless the person has obtained a permit from DOR to make such sales or solicitations. The person would have to file an application for a permit with DOR, in the manner prescribed by the Department, and submit the following fee with the application: (a) if the person sells no more than 30,000 cigarettes annually to consumers in this state by direct marketing, $1,000; (b) if the person sells more than 30,000 but less than 600,001 cigarettes annually, $5,000; or (c) if the person sells more than 600,000 cigarettes annually, $10,000. A permit issued under this provision would expire on December 31 of each year.

DOR could not issue a permit to a person unless the person certifies to the Department that the person will either: (a) acquire unstamped cigarettes from the manufacturer or from the first importer of record, pay the state cigarette tax, affix tax stamps to the cigarette packages or containers, store such packages or containers, and sell only such packages or containers to consumers in this state by direct marketing; or (b) purchase stamped cigarettes from a distributor and sell only such packages or containers to consumers in this state by direct marketing.

No person could be issued a direct marketer's permit unless the person certifies to DOR, in the manner prescribed by the Department, that all cigarette sales to consumers in this state will be credit-card or personal-check transactions; that the invoices for all shipments of cigarette sales from the person will bear the person's name, address and permit number; and that the person will provide DOR any information the Department considers necessary to administer this provision.

No direct marketer could purchase tax stamps or sell cigarettes in excess of the number of cigarette sales specified in his or her permit unless the person pays the applicable, higher permit fee. Any person who sells cigarettes in excess of the number of cigarette sales specified in his or her permit would have to pay a penalty to DOR of $5,000 or an amount that is equal to $50 for every 200 cigarettes, or fraction of 200 cigarettes, whichever is greater.

No person could sell cigarettes to consumers in this state by direct marketing unless the cigarette tax is paid on such cigarettes and tax stamps are affixed to the cigarette packages or containers. No person could sell cigarettes to consumers in this state by direct marketing unless the sales or use tax is paid on the sale of such cigarettes.

No person could sell cigarettes to consumers in this state by direct marketing unless the person verifies the consumer's identity and that the consumer is at least 18 years old by either: (a) using a data base, approved by DOR, that includes information based on public records; or (b) obtaining a notarized copy of the purchaser's driver's license, official Wisconsin identification card, passport or military identification. Alternatively, a different mechanism, if approved by DOR, could be used for verifying that the consumer is at least 18 years of age.

Any person who, without having a valid permit, sells or solicits sales of cigarettes to consumers in this state by direct marketing would have to pay a penalty to DOR of $5,000 or an amount that is equal to $50 for every 200 cigarettes, or fraction of 200 cigarettes, sold to consumers in this state by direct marketing, whichever is greater.

No sale of cigarettes to a consumer in this state by direct marketing could exceed 10 cartons for each invoice or 20 cartons in a 30-day period for each purchaser or address. Any person who sells cigarettes that exceed these maximum amounts would have to pay a penalty to DOR of $5,000 or an amount that is equal to $50 for every 200 cigarettes, or fraction of 200 cigarettes, sold above the maximum amounts, whichever is greater. Any person who purchases cigarettes that exceed the maximum amounts would have to pay a penalty to DOR of $25 per carton. In addition, any person who purchases cigarettes that exceed the maximum amounts would have to apply for a wholesale cigarette permit with DOR.

No cigarettes could be shipped to a person who is under 18 years of age or to a post-office box. Finally, the current 1.6% distributor's discount on stamp purchases and other cigarette tax payment provisions would apply to direct marketers.

Direct Marketing of Tobacco Products

The proposal would create new provisions in Chapter 139 regarding direct marketing of tobacco products:

Currently, "consumer" means any person who has title to or possession of tobacco products in storage for use or other consumption in this state. The proposal would alter this definition to mean any individual who receives tobacco products for his or her own personal use or consumption or any individual who has title to or possession of tobacco products for other than sale or resale.

"Direct marketer," "direct marketing" and "person," and "retailer," would be defined in the tobacco products statutes as under the cigarette tax provisions with references corrected to apply to tobacco products. In addition, "the definition of "retail outlet" would be modified to mean each place of business from which tobacco products are sold to consumers by a retailer. The current definition does not include the phrase "by a retailer." The changes to "retailer" and "retail outlet" are intended to clarify that these entities or establishments would not be considered direct marketers under this proposal.

Under the current tobacco products tax statutes, the definition of "distributor" means, among other things, any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale. The proposal would change this definition to specify that "distributor" would mean, among other things, any person in this state engaged in the business of selling tobacco products who brings, or causes to be brought, into this state from outside the state any tobacco products for sale.

The current definition of "distributor" also includes any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to retailers in this state to be sold by those retailers. The proposal would modify this definition to read any person outside this state engaged in the business of selling tobacco products who ships or transports tobacco products to retailers in this state to be sold by those retailers or ships tobacco products to consumers in this state.

No person could sell tobacco products by direct marketing to consumers in this state as a direct marketer or solicit sales of tobacco products to consumers in this state by direct marketing unless the person has obtained a permit from DOR to make such sales or solicitations. The person would have to file an application for a permit with DOR, in the manner prescribed by the Department, and submit a $500 fee with the application.

No person could be issued a direct marketing permit unless the person holds a valid tobacco products distributor’s permit. The provisions requiring denial of a cigarette permit by DOR to persons who have been convicted of certain crimes would also apply to tobacco products direct

marketing and wholesale permits. A direct marketing permit issued under this provision would expire on December 31 of each year.

No person could be issued a permit under these provisions unless the person certifies to DOR, in the manner prescribed by the Department, that all tobacco product sales to consumers in this state will be credit-card or personal-check transactions; that the invoice for all shipments of tobacco product sales from the person will bear the person's name, address and permit number; and that the person will provide DOR any information the Department considers necessary to administer these provisions.

No person could sell tobacco products by direct marketing to consumers in this state unless the tobacco products tax and sales and use tax have been paid with regard to such products.

No person could sell tobacco products to consumers in this state by direct marketing unless the person verifies the identity of the consumer and that the consumer is at least 18 years old by either: (a) using a data base, approved by DOR, that includes information based on public records; or (b) obtaining a notarized copy of the purchaser's driver's license or official Wisconsin identification card, passport, or military identification. Alternatively, a different mechanism, if approved by DOR, could be used for verifying that the consumer is at least 18 years of age.

Any person who, without having a valid direct marketing permit, sells or solicits sales of tobacco products to consumers in this state by direct marketing would have to pay a penalty to DOR of $5,000 or an amount that is equal to 50% of the tax due on the tobacco products the person sold, without having a valid permit, to consumers in this state by direct marketing, whichever is greater.

No tobacco products could be shipped to a person who is under 18 years of age or to a post-office box.

Provisions Regarding Salespersons

Current law provides that no person may sell or take orders for cigarettes or tobacco products for resale in Wisconsin for a manufacturer or permittee without first obtaining a salesperson's permit from DOR. Further, under current law no manufacturer or permittee can authorize a person to sell or take orders for cigarettes or tobacco products without that person having secured a salesperson's permit. The proposal would modify these requirements to provide that: (a) no person in this state may solicit sales of cigarettes or tobacco products unless the person they represent, whether in state or outside this state, holds a permit with DOR; and (b) soliciting sales of cigarettes or tobacco products would be covered in addition to actual sales.

Required Payment of Tobacco Products Tax

This proposal would create a provision specifying that no person may possess taxable tobacco products in this state unless the tobacco products tax is paid. In addition, it would specify that no person other than a distributor with a valid permit from DOR could import into Wisconsin taxable tobacco products for which the tobacco products tax has not been paid.

Modifications to Chapter 134 (Miscellaneous Trade Regulations)

Under current law, Chapter 134 prohibits the sale of cigarettes and tobacco products to minors by retailers, manufacturers, distributors, jobbers and subjobbers. The proposal would also apply these provisions to direct marketers of cigarettes and tobacco products.

In addition, this proposal specifies that proof of any of the following facts by a direct marketer who sells cigarettes or tobacco products to a person under the age of 18 would be a defense to any prosecution for a violation of the prohibition against selling or giving cigarettes or tobacco products to a person under age 18: (a) that the direct marketer used a mechanism, approved by DOR, for verifying the age of the purchaser; (b) that the purchaser falsely represented that he or she had attained the age of 18 and presented a copy or facsimile of a government-issued identification; (c) that the name and birthdate of the purchaser, as indicated by the purchaser, matched the name and birthdate on the identification presented to the direct marketer; and (d) that the sale was made in good faith, in reasonable reliance on the mechanism approved by DOR and the representation and identification presented by the purchaser, and in the belief that the purchaser had attained the age of 18.

Cigarette Tax Meter Machines

Under current law, in lieu of tax stamps, the Secretary of DOR may allow impressions applied by the use of meter machines to signify that the cigarette tax has been paid. The proposal would repeal this provision.

Penalties for Illegal Possession of Cigarettes

Under current law, it is unlawful for any person to possess in excess of 400 cigarettes unless the required state tax stamps are properly affixed. This provision does not apply to cigarette manufacturers, distributors or warehouse operators possessing valid permits issued by DOR. The proposal would delete the 400-cigarette threshold in this provision so that possession of any number of unstamped cigarettes would be illegal. In addition, it specifies that this provision would not apply to direct marketers.

As part of the truth in sentencing provisions, the proposal would also modify the penalties for illegally possessing cigarettes, effective on the first day of the seventh month beginning after publication of the budget adjustment bill. Currently, if the number of cigarettes does not exceed

6,000, the penalty is a fine of up to $200, imprisonment for up to six months or both. These penalties would be increased to a fine of up to $1,000, imprisonment for up to one year or both. If the number of cigarettes is between 6,000 and 36,000, the current penalty is a fine of up to $1,000, imprisonment for up to one year or both. Under this proposal, such violators would be guilty of a Class I felony. Finally, under current law, if the number of cigarettes exceeds 36,000, the violator is subject to a fine of up to $10,000, imprisonment for up to three years or both. Under the proposal, such violations would be a Class H felony.

Under current law, in general, no person other than a licensed distributor may import into this state more than 400 cigarettes on which the state cigarette tax has not been paid and the container of which does not bear proper tax stamps. The proposal would delete the 400-cigarette threshold in this provision so that importing any number of untaxed cigarettes would be illegal. In addition, it specifies that this provision would not apply to direct marketers.

Permit Requirement for Cigarette Manufacturers and Distributors

Under current law, no person may manufacture cigarettes in this state or sell cigarettes in this state as a distributor, jobber, vending machine operator or multiple retailer and no person may operate a warehouse in this state for the storage of cigarettes for another person without first filing an application for and obtaining the proper permit to perform such operations from DOR. This provision applies to all officers, directors, agents and stockholders holding 5% or more of the stock of any corporation applying for a permit. The proposal would apply the permit requirement to direct marketers. In addition, the provision regarding stockholders would be repealed.

Under current law, subject to nondiscrimination provisions, no permit may be granted to any person to whom any of the following applies: (a) the person has been convicted of a misdemeanor not involving Chapters 340 to 349 (relating to motor vehicles) at least three times; (b) the person has been convicted of a felony, unless pardoned; (c) the person is addicted to the use of a controlled substance or controlled substance analog; (d) the person has income which comes principally from gambling or has been convicted of two or more gambling offenses; (e) the person has been guilty of crimes relating to prostitution; (f) the person has been guilty of crimes relating to loaning money or anything of value to persons holding licenses or permits pursuant to the provisions regarding the regulation of alcohol beverages; or (g) the person does not hold a sales tax seller's permit, if the person is a retailer.

The proposal would repeal items (a) through (f) and, instead, provide that no permit could be granted to any person who: (a) has an arrest record or a conviction record (subject to nondiscrimination provisions); (b) has been convicted of a felony, or as a repeat or habitual offender, unless pardoned (also subject to nondiscrimination provisions) or (c) has not submitted proof that the person holds a sales tax seller's permit or that DOR will issue a seller's permit to the person. The proposal would also specify that these provisions apply to all partners of a partnership, all members and agents of an LLC and all officers and agents of a corporation. In addition, the proposal would provide that, subject to nondiscrimination provisions, if a business

entity has been convicted of a crime, the entity could not be issued a permit unless the entity has terminated its relationship with the individuals whose actions directly contributed to the conviction.

Required Records for Cigarette Distributors and Direct Marketers

Under current law, cigarette distributors must keep records of purchases and sales of cigarettes and of purchases and disposition of cigarette tax stamps. In general, cigarette permittees must render a true and correct invoice of every sale of cigarettes at wholesale and, on or before the 15th day of each calendar month, file a verified report of all cigarettes purchased, sold, received, warehoused or withdrawn during the preceding calendar month. However, certain permittees may be allowed to file the reports quarterly rather than monthly.

The proposal would require cigarette direct marketers to keep the same records that are currently required of distributors and report on a monthly basis. In addition, it specifies that records of purchases and sales of cigarettes that are kept by direct marketers would have to indicate, for each shipment of cigarettes into this state in the month preceding the report, the invoice date and number; the quantity of cigarettes shipped; the brand name of the cigarettes shipped; the manufacturer of the cigarettes shipped and the manufacturer's origin; the purchaser's name, address, and birth date; the name of the person to whom the cigarettes were shipped; the address to which the cigarettes were shipped; and any other information DOR requires.

For all permittees, the proposal would require that the monthly or quarterly report would have to cover all purchases and / or sales of cigarettes.

Penalties for Failure to Keep Required Records or to Allow Inspection

Under current law, any cigarette permittee who fails to keep the records required under the cigarette or tobacco products tax statutes may be fined not less than $100 nor more than $500 or imprisoned not more than six months or both. The proposal would, instead, specify that the penalty for a first offense would be a fine of $500 to $1,000. For a second or subsequent offense, the penalty would be a fine of $1,000 to $5,000, imprisonment for up to 180 days or both.

Currently, any person who refuses to permit any examination or inspection of its premises or records authorized under the cigarette or tobacco products tax statutes may be fined not more than $500 or imprisoned not more than 90 days or both. The proposal would increase this penalty to a fine of $500 to $1,000, imprisonment for up to 180 days or both.

Other Penalties

This proposal would create a new provision specifying that any person who manufactures or sells cigarettes in this state without holding the proper permit issued under the cigarette tax statutes could be fined not less than $1,000 nor more than $10,000 or imprisoned not less than six

months nor more than two years or both. Effective on the first day of the seventh month beginning after publication, violators of this provision would be guilty of a Class I felony.

Under current law, in addition to the penalties imposed for violation of the cigarette or tobacco products tax statutes or any of the rules of DOR, the permit of any person convicted must be automatically revoked and he or she may not be granted another permit for a period of two years following the revocation. Under the proposal, revocation of the permit would only occur after a second conviction and would be for a period of five years, during which the person could not act as the employee or agent of a cigarette permittee to perform acts authorized by any permit issued under the cigarette tax provisions.

Assistance by Attorney General in Prosecutions

Under current law, upon request by the Secretary of DOR, the Attorney General may represent this state or assist a district attorney in prosecuting any case arising under the cigarette tax statutes. This proposal would extend this authority to violations of Chapter 134 (Miscellaneous Trade Regulations) that involve the sale of cigarettes and tobacco products.

Administrative Appropriation

Under the proposal, an annual PR appropriation would be created in DOR for enforcing and administering the new provisions regarding cigarette and tobacco products direct marketing permits. The appropriation would be funded with monies received from permits issued and penalties assessed on cigarette and tobacco products direct marketers. DOR would be provided expenditure authority of $126,600 PR in 2002-03 for administrative costs. In addition, 1.5 PR FTE positions would be created in that year.

Under current law, all cigarettes acquired, owned, imported, possessed, kept, stored, made, sold, distributed or transported in violation of the cigarette tax statutes are subject to seizure by DOR or any peace officer. If cigarettes which do not bear the proper tax stamps or on which the tax has not been paid are seized, they may be given to law enforcement officers to use in criminal investigations or sold to qualified buyers by DOR. If the cigarettes are sold, after deducting the costs of the sale and the keeping of the property, the proceeds of the sale are paid into the state treasury. This proposal would specify that proceeds from the sale of cigarettes seized from direct marketers who violate the cigarette tax statutes would be deposited in the new DOR appropriation for administration of cigarette and tobacco products direct marketing permits.

Fiscal Effect

DOR estimates that adoption of this proposal would result in additional revenues from permit fees paid by direct marketers of cigarettes and tobacco products of approximately $160,000 in 2001-02 for 103 anticipated permits and $175,000 in 2002-03 for 110 anticipated permits. These revenues would be credited to the new appropriation for enforcing the cigarette and tobacco

products direct marketing provisions. In addition, it is possible that some additional tax revenues from cigarette sales via direct marketing could be generated. This could occur if the new provisions result in taxes being collected on internet sales that are not now taxed or if the new provisions lead to increased consumption of cigarettes. The extent of the potential revenue gain is unknown.

As noted, the proposal would provide DOR with funding for administrative costs of $126,600 in 2002-03. Of this amount, $16,000 is a one-time cost, while $110,600 represents the ongoing annual cost. In addition, 1.5 PR positions would be created.

Conference Committee/Legislature: Delete provision.

GOVERNOR

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$0	$521,700	$17,400	$539,100
GPR	- $525,900	$521,700	$0	- $4,200

Governor: Reduce the following GPR appropriations by a total of $175,400 in 2001-02 and $350,500 in 2002-03. These amounts represent 5.0% of the appropriations in 2001-02 and 10.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
Executive Office Operations	- $157,500	- $314,900
Contingent Fund	-1,100	-2,200
Membership in National Associations	-5,600	-11,100
Literacy Improvement Aids	-1,400	-2,800
Executive Residence Operations	-9,800	-19,500
Total	-$175,400	-$350,500

Joint Finance: Maintain Act 16 funding levels except for the reduction to Literacy Improvement Aids. Require that the Governor take actions to ensure that during the 2001-03 biennium an amount equal to a total of $521,700 GPR lapses to the general fund from the GPR

appropriations to the Office for state operations. These lapse amounts are equal to the 5% and 10% reductions to Act 16 GPR state operations levels for the Governor's Office.

Assembly: Include Joint Finance provision except increase the required GPR lapse by $17,400 to provide an additional lapse equivalent to an additional 0.5% reduction in 2002-03 to the Act 16 GPR state operations level for the Governor's Office.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9221(1) and (1z)]

2. DOMESTIC SECURITY COORDINATOR POSITION [LFB Paper 1160]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	1.00	- 1.00	0.00

Governor: Statutorily authorize the Governor to designate an employee in the Governor's Office to serve as Domestic Security Coordinator and specify that such employee shall advise and assist the Governor with respect to coordination of the state's security and public safety needs. No funding increase for the Governor's Office is indicated; however, a session law provision would be created to authorize the Secretary of DOA, prior to January 1, 2003, to transfer 1.0 unclassified position in any executive branch state agency that is vacant on the date of the transfer to the Governor's Office. The session law provision would further specify that on the date of the transfer the number of authorized positions for the Governor's Office would be increased by 1.0 FTE and the number of authorized positions for the agency providing the position would be decreased by 1.0 FTE. The position increase in the Governor's Office would be funded from the GPR sum sufficient appropriation for the Governor's Office but no funding amount for the position is identified. No provision is specified for any appropriation reduction in the sending agency.

Joint Finance/Legislature: Delete provision.

HEALTH AND FAMILY SERVICES

Departmentwide

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $5,173,700	- $1,871,000	- $935,500	- $7,980,200

Governor: Reduce the following GPR appropriations that support DHFS general program operations by a total of $2,131,900 in 2001-02 and $3,041,800 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03, except that the percentage reduction for the Division of Care and Treatment Facilities would be applied only to the amounts budgeted for centralized program support and administrative services. Consequently, GPR amounts budgeted to fund costs of care for patients at the mental health institutes and the Sand Ridge Secure Treatment Center and to provide services to inmates at the Wisconsin Resource Center would not be reduced.

	Reduction Amount	
	2001-02	2002-03
Public Health	- $185,900	- $265,500
Care and Treatment Facilities	-44,000	-62,800
Children and Family Services	-178,400	-265,500
Health Care Financing	-584,200	-834,600
Supportive Living	-505,200	-718,900
Management and Technology and Administration	-634,200	-894,500
Total	-$2,131,900	-$3,041,800

Joint Finance: Include the Governor's provision. In addition, reduce the Department's largest GPR state operations appropriation by $1,871,000 in 2002-03. This amount represents an additional 1% reduction in the agency's total state operations appropriations in 2002-03, including appropriations for the mental health institutes, the Sand Ridge Secure Treatment Center and the Wisconsin Resource Center. Provide that the Department may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of the 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Modify the Joint Finance provision by reducing the Department's largest GPR state operations appropriation by an additional $935,500 in 2002-03 so that, in addition to the Governor's reductions, funding for DHFS state operations would be reduced by $2,806,500 GPR in 2002-03. This amount represents an additional 0.5% reduction in the agency's total state operations appropriations in 2002-03, including appropriations for the mental health institutes, the Sand Ridge Secure Treatment Center and the Wisconsin Resource Center. Provide that the Department may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9223(3),(4),(5),(7),(15)&(18) and 9259(7z)]

2. PROGRAM REVENUE LAPSE [LFB Paper 1121]

GPR-REV	$808,000
PR-Lapse	808,000

Governor/Legislature: Lapse $332,700 in 2001-02 and $475,300 in 2002-03 to the general fund from the Department's income augmentation PR appropriation.

Income augmentation funds are unanticipated federal funds DHFS receives under Title IV-E (foster care), XIX (Medicaid) and XVIII (Medicare) of the federal Social Security Act as reimbursement for costs that were initially paid with state or local revenue, or revenue from one of these sources that would not otherwise have been available, had it not been for activities conducted to augment federal income. There are no federal restrictions relating to the use of these funds. Consequently, these funds can be used for any purpose.

[Act 109 Section: 9259(1)]

3. CARE AND TREATMENT FACILITIES UTILITY COSTS [LFB Paper 1100]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR-Lapse	$600,000	- $600,000	$0
SEG	$600,000	- $600,000	$0

Governor: Provide one-time funding of $600,000 SEG in 2002-03 from the utility public benefits fund to support utility costs for the Division of Care and Treatment Facilities. Create an annual appropriation for this purpose and prohibit DHFS from encumbering moneys from

the new appropriation after June 30, 2003. Include a nonstatutory provision specifying that of the moneys currently appropriated under the agency's GPR-funded energy costs appropriation, $600,000 GPR in 2002-03 could be encumbered or expended only upon the approval of the DOA Secretary. Increase GPR lapse estimates by $600,000 in 2002-03 to reflect the availability of SEG funding to support the agency's energy costs.

This item is part of a proposal to provide a one-time offset with SEG-funded public benefits moneys of a portion of several state agencies' GPR-funded energy costs during the current biennium. This proposal is summarized under "Administration."

Senate/Legislature: Delete provision.

4. FUEL AND UTILITIES LAPSE ESTIMATE

GPR-Lapse	$230,800

Governor/Legislature: Estimate the 2001-02 lapse amount from the Division of Care and Treatment Facilities' energy costs appropriation at $230,800. The Division is currently appropriated $2,344,400 GPR in 2001-02 for energy costs. The Division's energy costs appropriation is not actually reduced under the bill; however, the fiscal effect of the estimated lapse is included in the general fund condition statement.

5. OFFICE OF FEDERAL-STATE RELATIONS

	Jt. Finance		Legislature (Chg. to JFC)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $74,500	- 1.00	$74,500	1.00	$0	0.00
FED	- 45,800	- 1.00	45,800	1.00	0	0.00
Total	- $120,300	- 2.00	$120,300	2.00	$0	0.00

Joint Finance: Reduce funding by $74,500 GPR and 1.0 GPR positions and $45,800 FED and 1.0 FED position in 2002-03 to delete salary, fringe benefit and related supplies and services funding and position authority for staff in the Office of Federal-State Relations, located in Washington D.C. Federal funding for this position is available for reimbursement of a state's indirect costs relating to the administration of federal grants and contracts. Under current law, any of these funds not used for DHFS' indirect costs are deposited in the general fund.

Assembly: Restore $45,800 FED and 1.0 FED position in 2002-03 for the Office of Federal-State Relations.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Delete provision.

Health Care Financing

1. MA AND BADGERCARE BENEFITS [LFB Paper 1165]

GPR	$74,374,200
FED	105,308,300
Total	$179,682,500

Governor: Provide $37,187,100 GPR annually and $52,963,400 FED in 2001-02 and $52,344,900 FED in 2002-03 to address an anticipated deficit in the medical assistance (MA) benefits appropriation. MA benefit costs are expected to exceed the amounts provided in Act 16 due to increases in the MA caseload, particularly among low-income families enrolled in MA, and greater spending for some services than anticipated in Act 16.

As of December, 2001, there were approximately 460,300 individuals enrolled in MA, an increase of over 26,000 enrollees since June, 2001. The funding provided in Act 16 for MA benefits assumed that the number of persons enrolled in MA would average approximately 432,000 in 2001-02 and 444,000 in 2002-03.

Joint Finance/Legislature: Adopt the Governor's funding recommendations. In addition, authorize the Joint Committee on Finance to transfer funds from any other GPR appropriation to the BadgerCare appropriation if the Committee determines that funding for BadgerCare is insufficient to fund the benefit costs of the program and: (a) unnecessary duplication of function can be eliminated; (b) more efficient and effective methods of administering programs will result; or (c) legislative intent will be more effectively carried out because of such transfer, and that legislative intent will not be changed as a result of such a transfer.

Current law requires DHFS to establish a lower maximum income level for initial eligibility determinations if BadgerCare funding is insufficient to meet program needs based on projected enrollment levels. The adjustment must not be greater than necessary to ensure sufficient funding is available. DHFS cannot implement a change to the maximum income level for initial eligibility unless it first submits to the Committee its plans for lowering the maximum income level and the Committee approves the plan under a 14-day passive approval process. This process is known as the "enrollment trigger."

Under this provision, DHFS would continue to be required to request the authority to implement the enrollment trigger if DHFS projects that budgeted funds are insufficient to support benefits. However, rather than approving or denying such a request, the Committee could transfer funds from other GPR appropriations to address a projected deficit.

[Act 109 Sections: 128m, 128n and 9223(11)]

2. MA AND BADGERCARE -- DELAY PAYMENTS TO MANAGED CARE ORGANIZATIONS

GPR	- $27,357,700
FED	- 41,858,900
Total	- $69,216,600

Governor/Legislature: Reduce funding for MA and BadgerCare benefits by $62,274,300 ($24,584,000 GPR and $37,690,300 FED) in 2001-02 and $6,942,300 ($2,773,700 GPR and $4,168,600 FED) in 2002-03 to reflect projected savings that would result by delaying payments to managed care organizations that provide services to MA and BadgerCare recipients. DHFS would delay MA and BadgerCare payments that would normally be paid in the last week of June, 2002, for July enrollment in managed care organizations, to the first week of July, 2002. DHFS would continue to make the payment it currently makes in June in the first week of July for each year thereafter. Therefore, the June, 2003, payment would be paid in July, 2003. This item includes: (a) reducing MA benefits funding by $49,797,800 ($20,541,600 GPR and $29,256,200 FED) in 2001-02 and $5,802,800 ($2,410,200 GPR and $3,392,600 FED) in 2002-03; and (b) reducing BadgerCare funding by $12,476,500 ($4,042,400 GPR and $8,434,100 FED) in 2001-02 and $1,139,500 ($363,500 GPR and $776,000 FED) in 2002-03.

The projected savings in 2001-02 reflects that DHFS would make 11, rather than 12 payments to managed care organizations in 2001-02. The projected savings in 2002-03 reflects the difference between the estimated payments for June, 2002, which would be paid in 2002-03, and the estimated payments for June, 2003, which would be paid in 2003-04 under this provision.

The estimates of the June, 2002, payments that would be deferred to July, 2002, include: (a) approximately $41 million (all funds) in payments to managed care organizations serving low-income families and elderly and disabled individuals enrolled in MA; (b) approximately $8.8 million (all funds) provided to care management organizations serving Family Care enrollees; and (c) approximately $12.5 million (all funds) to health maintenance organizations serving BadgerCare enrollees.

[Act 109 Sections: 9223(10)&(13)]

3. MA AND BADGERCARE PRESCRIPTION DRUGS -- PRIOR AUTHORIZATION [LFB Paper 1166]

GPR	- $13,545,300
FED	- 19,483,900
Total	- $33,029,200

Governor: Reduce funding for MA and BadgerCare benefits by $3,809,200 ($1,551,100 GPR and $2,258,100 FED) in 2001-02 and $29,220,000 ($11,994,200 GPR and $17,225,800 FED) in 2002-03 to reflect anticipated savings available through use of prior authorization requirements for prescription drugs used by MA and BadgerCare recipients. This item includes: (a) reducing MA benefits funding by $3,580,800 ($1,477,100 GPR and $2,103,700 FED) in 2001-02 and $27,742,600 ($11,522,900 GPR and $16,219,700 FED) in 2002-03; and (b) reducing BadgerCare benefits funding by $228,400 ($74,000 GPR and $154,400 FED) in 2001-02 and $1,477,400 ($471,300 GPR and $1,006,100 FED) in 2002-03.

The administration indicates that, through the use of prior authorization requirements and other cost-saving measures, MA and BadgerCare costs for prescription drugs would be reduced.

In addition, require the DHFS Secretary to create a prescription drug prior authorization committee to advise DHFS on issues related to prior authorization decisions made concerning prescription drugs used by MA recipients. Require the Secretary to appoint as members at least all of the following: (a) two physicians who are currently in practice; (b) two pharmacists; (c) one advocate for MA recipients; and (d) one representative of the pharmaceutical manufacturing industry.

Currently, DHFS convenes a committee to make recommendations on policies and standards for prior authorization requirements for prescription drugs used by MA recipients. This committee includes five pharmacists, three physicians and a nurse. Five of the members are DHFS employees, three are consultants under contract with DHFS and one is a faculty member at the University of Wisconsin-Madison School of Pharmacy. None of the physicians on the committee are currently in practice.

This committee considers proposals to require prior authorization of certain prescription drugs, receives testimony from representatives of companies manufacturing the drug under consideration and makes a recommendation to the DHFS Secretary on whether to require prior authorization for a drug and the standards DHFS uses to approve prior authorization requests. The Secretary is responsible for approving changes to DHFS's prior authorization policies. The administration indicates that this process would remain the same under this provision.

Under the terms of the two federal waivers under which BadgerCare operates, all MA policies regarding the use and reimbursement for prescription drugs apply under BadgerCare as well.

Joint Finance: Adopt the Governor's recommendations, except as follows: (a) delete the provision requiring the committee to include a representative from the pharmaceutical manufacturing industry and instead require the committee to accept information and commentary from such representatives in its review of its prior authorization policies; and (b) require the advocate for MA recipients to have sufficient medical background to evaluate a drug's clinical effectiveness, as determined by DHFS.

Assembly: Include the Joint Finance provision. In addition, prohibit DHFS from establishing prior authorization policies for prescription drugs used to treat respiratory illnesses, mental illness or diabetes.

Also, prior to implementing a proposal to require prior authorization for a prescription drug to be covered under MA and BadgerCare, require DHFS to hold a hearing on such a proposal. Further, by October 1, 2002, and every six months thereafter, require DHFS to review

and reconsider its prior authorization policies for all prescription drugs covered under MA and BadgerCare and to hold a hearing for such review and reconsideration.

Require DHFS to send written notice of such hearings to: (a) the revisor for publication in the state's administrative register; (b) the chief clerks of each house of the Legislature to be distributed to the appropriate legislative standing committees; (c) the Secretary of the Department of Administration; and (d) other interested persons.

Require DHFS, at the beginning of such hearings, to provide written, factual information on which the proposal is based, including medical, pharmacological or economic rationale for such a proposal and any information obtained by the DHFS prior authorization committee. Require DHFS, at such hearings, to give each interested person or a representative the opportunity to present facts, opinions or arguments orally or in writing. Require DHFS to keep a record of the hearing in a manner the agency considers desirable and feasible.

Authorize DHFS to limit oral presentations if such a hearing would be unduly lengthened by repetitious testimony, and if appropriate, question individuals appearing at the hearing.

Specify that these provisions would first apply to new prior authorization policies implemented on the bill's general effective date. Under this provision, the first review and reconsideration of existing prior authorization policies for prescription drugs would occur by October 1, 2002, and subsequent reviews and reconsiderations would occur every six months after that date.

In 2000-01, approximately $104 million (all funds) was expended under MA and BadgerCare for drugs used to treat mental illness, such as psychosis, depression and anxiety. Approximately $14.7 million (all funds) was expended for drugs used to treat respiratory illnesses such as asthma and allergies and approximately $14.6 million (all funds) was expended for diabetes-related medications, including insulin.

Senate: Include the Joint Finance provision. In addition, require DHFS to establish a preferred drug list that would list drugs that would not require prior authorization under MA and authorize DHFS to negotiate agreements with drug manufacturers to provide rebates on drugs purchased by MA recipients and make several modifications to the responsibilities of the DHFS prior authorization committee established under the Joint Finance provision.

Prior Authorization and Preferred Drug List. Effective July 1, 2003, require DHFS to require prior authorization for all drugs prescribed to MA recipients unless: (a) the drug would be used to treat HIV infection; (b) the drug would be used to treat mental illness, including anxiety, depression and psychosis; (c) the MA recipient is a resident of a nursing home, institution for mental disease or an intermediate care facility for the mentally retarded (ICF-MR); or (d) the drug is listed on a preferred drug list established by DHFS.

Beginning July 1, 2002, authorize DHFS to establish a preferred drug list of those drugs that would not be subject to prior authorization requirements. In establishing a preferred drug list, require DHFS to consider: (a) the recommendations of the DHFS prior authorization committee, that would be created under the Joint Finance provision; (b) the clinical efficacy of a prescription drug; and (c) the price of competing drugs minus any rebates paid by drug manufacturers under federal law or supplemental rebates negotiated by DHFS.

Permit an MA recipient to contest a DHFS decision to deny prior authorization for a drug excluded from the preferred drug list by filing a written request for a hearing with the DOA Division of Hearings and Appeals within 45 days after denial of coverage for a drug that is subject to prior authorization. Require DHFS to inform MA recipients of their right to contest such a decision.

Require DHFS to disseminate the preferred drug list to all appropriate MA providers and to make it available publicly. Additionally, require DHFS to periodically update the preferred drug list, based on recommendations of the DHFS prior authorization committee and require DHFS to disseminate the changes to appropriate providers.

Supplemental Rebates. Authorize DHFS to enter into arrangements with pharmaceutical manufacturers that require manufacturers to provide rebates for prescription drugs used by MA recipients. For generic prescription drugs, the minimum rebate manufacturers would pay under such an arrangement, including any rebate required under federal law and a supplemental rebate, would total at least 15.1% of the average manufacturer price, as defined in federal law, unless DHFS determines that a generic prescription drug is competitive at a lower rebate percentage. For brand name prescription drugs, the minimum rebate manufacturers would pay under such arrangements, including any rebate required under federal law and a supplemental rebate, would total at least 25.1% of the average manufacturer price, as defined in federal law, unless DHFS determines that a brand name prescription drug is competitive at a lower rebate percentage. Authorize DHFS to establish rebate agreements for brand name drugs after it has established a preferred drug list.

Specify that a supplemental rebate may include, at DHFS' discretion, a program benefit that offsets MA costs, including disease management programs, a drug product donation program, a drug utilization control program, a counseling and education program for prescribers and beneficiaries, or a program to reduce MA fraud and abuse, or cash rebate.

Specify that if a manufacturer agrees to pay the minimum supplemental rebate described above, DHFS must consider including a prescription drug of that manufacturer in the preferred drug list.

Specify that trade secrets, amounts of rebates or supplemental rebates, percentages of rebate rates, and pricing of prescription drugs by manufacturers that are contained in DHFS records or the records of its agents must be kept confidential in accordance with federal law and

are not public records for purposes of the state's open records law. In addition, specify that the portion of meetings of the DHFS prior authorization committee that discusses this information must be kept confidential and are not subject to the provisions of the state's open meetings law.

Specify that the payment of any rebates under this provision would be used to offset GPR and federal expenditures for MA, BadgerCare and SeniorCare (the prescription drug assistance program created in Act 16), as appropriate. Authorize DHFS to enter into a contract with an entity to perform the duties and exercise the powers of DHFS to negotiate supplemental rebate agreements with prescription drug manufacturers. Authorize DHFS to request a waiver of any federal MA laws necessary to permit DHFS to implement this provision.

Under current federal MA law, manufacturers of generic prescription drugs provide minimum rebates to states equal to 11% of the average manufacturer price of a drug. Manufacturers of brand name prescription drugs provide minimum rebates of 15.1% of the average manufacturer price of the drug. In addition, manufacturers agree to provide additional rebates to ensure that state MA programs receive the "best price" on prescription drugs in comparison to purchasers of prescription drugs in the private market. Manufacturers also provide additional rebates if the increase in the average manufacturer price is greater than the rate of inflation, as measured by the consumer price index for all urban consumers.

Responsibilities of the DHFS Prior Authorization Committee. In addition to the duties specified in the Joint Finance provision, require the DHFS prior authorization committee to consider the clinical efficacy, safety and cost effectiveness of prescription drugs and develop and provide to DHFS, a recommended list of drugs that would be included on the preferred drug list. In initially developing and subsequently revising the preferred drug list, require the committee to: (a) ensure that manufacturers that agree to supplemental rebates have an opportunity to present evidence supporting inclusion of a product on the preferred drug list; (b) at least every 12 months, review all prescription drug classes included on the preferred drug list; and (c) recommend additions or deletions to the preferred drug list that permit cost-saving, medically appropriate drug therapies for MA recipients.

Require DHFS to have its prior authorization committee review, at its earliest regularly scheduled meeting, a drug or any of its uses that has received approval from the federal Food and Drug Administration under a priority new drug application if DHFS receives timely notice of such approval or if DHFS receives notice from a drug manufacturer of a new drug product, DHFS must schedule, to the extent possible, a review for the product by the DHFS prior authorization committee at its earliest regularly scheduled meeting.

Studies and Reports. Require DHFS to study the feasibility of using a preferred drug list for residents of nursing homes, institutions for mental diseases and ICFs-MR and to report on its recommendations to the Governor and the appropriate standing committees of the Legislature by January 1, 2003.

By January 15 of each year, require DHFS to report to the Governor and the appropriate standing committees of the Legislature a report on the implementation of these provisions, including any progress made in implementing cost-containment measures under MA and its effect on expenditures for prescription drugs.

Conference Committee/Legislature: Include Joint Finance provision.

[Act 109 Sections: 122 and 9223(10)&(13)]

4. MA -- FUND COMMUNITY INTEGRATION PROGRAM WITH IGT REVENUE

GPR	- $50,000,000
SEG	50,000,000
Total	$0

Governor/Legislature: Provide $50,000,000 SEG from the MA trust fund and reduce GPR funding by a corresponding amount in 2001-02 to support home- and community-based, long-term care services counties provide under the community integration program (CIP IA, CIP IB and CIP II).

The bill anticipates that $50,000,000 of additional federal MA matching funds the state claims under the intergovernmental transfer (IGT) program will be available in the 2001-03 biennium than had been anticipated during the Act 16 budget deliberations. The administration expects this additional IGT revenue to be available because of a provision contained in a final rule issued by the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) on September 5, 2001, that extended the period during which certain states, including Wisconsin, could collect IGT payments, to one year after the effective date of a state plan amendment or November 5, 2001, whichever is later. All IGT revenue the state receives is deposited to a segregated trust fund.

[Act 109 Sections: 9223(12)&(14)]

5. MA NURSING HOME PAYMENTS -- LABOR REGION ADJUSTMENT FOR HOMES IN ST. CROIX AND PIERCE COUNTY

FED	$725,100
SEG	- 513,900
Total	$1,239,000

Assembly: Provide $336,900 SEG from the MA trust fund and $474,100 FED in 2002-03 to increase nursing home payments to facilities in St. Croix and Pierce County by requiring DHFS to use the Medicare hospital cost index in determining the labor region adjustment to direct care cost targets for facilities in these two counties.

Based on a plan approved by the Joint Committee on Finance in December, 2001, DHFS is currently required to use, for all facilities in the state, a labor region adjustment that uses the Medicare labor region designations, weighted to MA patient day costs, based on Wisconsin

facility-specific average wages, excluding county-owned nursing homes, but including homes under phase-down agreements.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision and provide an additional $251,000 FED and $177,000 SEG in 2002-03 to increase nursing home payments to facilities in Douglas County, in addition to St. Croix and Pierce County, by requiring DHFS to use the Medicare hospital cost index in determining the labor region adjustment to direct care cost targets for facilities in these three counties.

[Act 109 Sections: 121t, 9223(20x) and 9323(2x)]

6. NURSING HOME IN THE CITY OF OCONTO

Joint Finance/Legislature: Require DHFS to redistribute a number of nursing home beds that corresponds to the number of approved beds of a nursing home whose owner has transferred to another location, resulting in the loss of a nursing home within 15 miles of a city with a population of 4,474 in 1990 in a county with a population of 30,226 in 1990. Exempt this redistribution from requirements in Chapter 150 relating to applications for available beds, review procedures and criteria DHFS would otherwise use in reviewing an applicant's proposal. Provide that this redistribution may only occur if the beds are redistributed to a location in the city with a population of 4,474 in 1990 in a county with a population of 30,226 in 1990 (the City of Oconto). Prohibit DHFS from receiving approval for the beds unless the person submits to DHFS, on a form provided by DHFS, an application that states the applicant's per diem operating and capital rates, which are the maximum allowable reimbursement that may be granted by DHFS for the first 12 months following licensure of the new beds.

Chapter 150 of the statutes establishes a statewide limit on the number of nursing home beds at 51,795 and a statewide limit on the number of beds in facilities that primarily serves persons with developmental disabilities at 3,704. DHFS may adjust these limits under certain circumstances prescribed in Subchapter II of Chapter 150 of the statutes.

Currently, DHFS is required to review each application for approving nursing home beds, hold a public meeting on the request, and may approve or reject the application based on statutory criteria. In considering the application, DHFS must consider cost containment as its first priority in applying statutory criteria and may not approve any project unless the applicant demonstrates: (a) the MA funds appropriated are sufficient to reimburse the applicant for providing the nursing home care; (b) the cost of providing an equal number of nursing home beds or an equal expansion would be consistent with the cost at similar nursing homes, and the applicant's per diem rates would be consistent with those of similar nursing homes; (c) the project does not conflict with the statewide bed limit; (d) a need for additional beds in the

health planning area where the project would be located; (e) the project is consistent with local plans for developing community-based services to provide long-term care; (f) health care personnel, capital and operating funds and other resources needed to provide the proposed services are available; (g) the project can be undertaken with the period of validity of the approval and completed within a reasonable period thereafter; (h) appropriate methods alternative to providing nursing home care in the health planning area are unavailable; (i) the quality of care to be provided is satisfactory, as determined by DHFS investigations, materials submitted by the applicant and recommendations from affected parties concerning the quality of care provided in nursing homes owned or operated by the applicant; and (j) for a project that would result in the relocation of nursing home beds, there are other adequate and appropriate resources available in the counties served by the nursing home to serve the nursing home residents who would be displaced by the relocation.

This provision would provide for the redistribution of nursing home beds for a facility in the City of Oconto in Oconto County and would exempt an applicant for these beds from some of the requirements in Chapter 150. The facility would need to meet other requirements, such as building code requirements, in order to operate as a nursing home.

[Act 109 Section: 336L]

7. MA PROVIDER FRAUD AND ABUSE

Senate/Legislature: Incorporate the provisions of Senate Bill 406 into the bill. These provisions would: (a) delete numerous changes enacted in 2001 Wisconsin Act 16 (the 2001-03 biennial budget act) relating to MA provider fraud and abuse; (b) require that hearings relating to DHFS recovery of money improperly or erroneously paid or overpayments to a provider, notification of decertification or suspension of MA certification to the Medical Examining Board or affiliated boards, and sanctions for noncompliance with the terms of provider agreements or certification criteria, be conducted as Class 2 proceedings under Chapter 227 of the statutes; and (c) require DHFS to promulgate administrative rules that specify criteria for, and required procedures for, submittal of appropriate claims for reimbursement and require that DHFS submit these rules in proposed form to Legislative Council staff no later than the first day of the seventh month beginning after the effective date of the bill.

The provisions enacted in Act 16 that would be deleted under this item include the following:

Limit on the Number of Certified MA Providers. Act 16 authorizes DHFS to limit the number of providers of particular MA services that may be certified, or limit the amount of resources, including employees and equipment, that a certified provider may use to provide particular services to MA recipients, if DHFS finds that: (a) existing certified providers and resources provide adequate services, in quality and amount, to meet the need of MA recipients for the

particular services; and (b) the potential for MA fraud and abuse exists if additional providers are certified or additional resources are used by certified providers.

Provider Recoveries. Under Act 16, DHFS must establish a deadline for payment of a recovery and require providers to pay interest on any delinquent recoveries at the rate of 1% per month or fraction of a month from the date of the overpayment.

DHFS is required to certify to DOR, at least annually, amounts that it has determined that it may recover from providers. However, DHFS is prohibited from certifying amounts unless it has met notice requirements and its determination has either not been appealed or is no longer under appeal. DHFS is required to inform the person from whom a recovery is due that it will certify to DOR the amount that is owed so that it can be setoff from any state tax refund that may be due the person.

Fees for Repeat Offenders. Act 16 authorizes DHFS, after providing reasonable notice and an opportunity for a hearing, to charge an assessment to a provider that repeatedly has been subject to recoveries because of the provider's failure to follow identical or similar billing procedures or to follow other identical or similar program requirements. The assessment could not exceed $1,000 or 200% of the amount of any repeated recoveries, whichever is greater. The revenue from these assessments is used to partially support the costs of conducting provider audits and investigations.

Under Act 16, a provider subjected to such a fee must pay it to DHFS within 10 days after receipt of the fee notice or the final decision after an administrative hearing, whichever is later. DHFS may recover any part of a fee not paid within the 10 days by reducing any payments owed to the provider for services provided. Further, DHFS may refer any such unpaid fees not recovered to the Attorney General for collection. Failure to pay such a fee is grounds for decertification as an MA provider. Payment of the fee does not relieve the provider of any other legal liability for recovery, but payment of the fee is not evidence of violation of a statute or rule.

Revenue received from the payment of fees charged to repeat offenders under this provision is credited to a PR appropriation. Under Act 16, the ability to charge providers a fee for repeated recoveries first applies to repeated recoveries from the identical provider that were made September 1, 2001 (the general effective date of Act 16).

Transfer of Business Operations. Act 16 requires DHFS to require a person who takes over the operation of a provider, to first obtain certification for the provider's operation, regardless of whether the person is currently certified. DHFS may withhold the certification until any outstanding recoveries are paid. Before a person takes over the operation of an MA provider that is liable for repayment of improper or erroneous payments or overpayments, full recovery of the improper or erroneous payment or overpayment must be made. Upon request, DHFS must notify the provider or the person that intends to take over the operation of the provider as to whether the provider is liable for a recovery.

If a person takes over the operation of a provider and any applicable recoveries have not been made, in addition to withholding certification as a provider, DHFS may proceed against the person taking over the provider's operation. The person taking over the provider's operation must pay any applicable recovery in full within 30 days after the person receives notification from DHFS about any recovery. If full payment is not received within 30 days, DHFS may bring action to compel payment or decertify the person or restrict his or her participation in the MA program, or DHFS may do both.

Act 16 specifies that whenever ownership of a nursing home or community-based facility is transferred to another person or persons, both the transferee and the transferor must comply with the above provisions, if the transferor was an MA provider. Previously, only the transferee was responsible for complying with the provisions regarding recovery of payments before the transfer of a facility's ownership.

To take over operation of a provider means to obtain any of the following: (a) ownership of the provider's business or all or substantially all of the assets of the business; (b) majority control over decisions; (c) the right to any profits or income; (d) the right to contact and offer services to patients, clients, or residents served by the provider; (e) an agreement that the provider will not compete with the person at all or with respect to a patient, client, resident, service, geographical area, or other part of the provider's business; (f) the right to perform services that are substantially similar to services performed by the provider at the same location as those performed by the provider; or (g) the right to use any distinctive name or symbol by which the provider is known in connection with services to be provided by the person.

These provisions first apply to sales or other transfers completed on September 1, 2001.

Provider Certification. Under Act 16, DHFS must decertify, or restrict a provider's participation in the MA program, if after giving reasonable notice and opportunity for a hearing, DHFS finds that the provider has violated a federal statute or regulation or a state statute or rule and the violation is by statute, regulation or rule grounds for decertification or restriction. DHFS must suspend the provider pending the hearing if DHFS includes in its decertification notice findings that the provider's continued participation in the MA program pending hearing is likely to lead to irretrievable loss of public funds and is unnecessary to provide adequate access to services to MA recipients. DHFS must issue a written decision as soon as practicable after the hearing. These provisions first apply to violations of federal and state statutes, regulations and rules committed on September 1, 2001. Previously, DHFS could decertify or suspend providers, after reasonable notice and a hearing, if the provider violated a federal or state law or rule that is grounds for decertification or suspension.

DHFS may require, as a condition of certification, all providers of a specific service, to file with DHFS, a surety bond issued by a surety company licensed to do business in Wisconsin. Providers subject to this provision are those that provide MA services for which providers have demonstrated significant potential to violate specified MA offenses, to require recovery or to need additional sanctions. The surety bond must be payable to DHFS in an amount that DHFS

determines is reasonable in view of amounts of former recoveries against providers of the specific services and DHFS' costs to pursue those recoveries.

DHFS must promulgate rules to specify: (a) those MA services for which providers have demonstrated significant potential to violate specified MA offenses; (b) the amount of the surety bonds; and (c) the terms of the surety bond, including amounts, if any, without interest to be refunded to the provider upon withdrawal or decertification from the MA program.

Provider Audits and Access to Records. Under Act 16, the DHFS Secretary may authorize personnel to audit or investigate and report to DHFS on issues relating to violations or alleged violations of MA statutes and regulations. Previously, the DHFS Secretary could appoint personnel to conduct such activities. Personnel conducting audits or investigations must have immediate access to any provider personnel, records, books or documents or other needed information. Under the written request of a person designated by the Secretary and upon presentation of the person's authorization, providers and recipients must accord the person access to any needed patient health care records of a recipient. Previously, authorized personnel have access to records, books, patient health care records and other documents and information.

Act 16 repealed provisions authorizing the DHFS Secretary to issue subpoenas to individuals who are required to provide specified information for the purposes of an audit, investigation, examination, analysis, review or other authorized functions relating to the program and provisions relating to the issuance and enforcement of such subpoenas. Under Act 16, failure or refusal of a provider to accord DHFS auditors or investigators access to provider personnel, records, books, MA patient health care records, or other requested documents or records constitutes grounds for decertification or suspension of the provider from participation in MA. No payment may be made for services rendered by the provider following decertification, during the period of suspension, or during any period of provider failure or refusal to accord such access.

In addition, DHFS must promulgate rules to implement these provisions and to submit the proposed rules to the Legislative Council no later than July 1, 2002 and these provisions first apply beginning January 1, 2003.

Current Law Relating to Class 2 Proceedings

Class 2 proceedings involve administrative hearings on contested cases. Usually, these hearings are presided over by hearing examiners appointed by the Administrator of the DOA Division of Hearings and Appeals. Class 2 proceedings are proceedings involving an agency determination to impose a sanction or penalty against a party, such as suspension or revocation of a license because of an alleged violation of law. Parties in a Class 2 proceeding have the right, before the date set for hearing, to discovery and to take depositions.

Currently, hearings regarding improper payments or overpayments are considered Class 3 proceedings, where each party in the case does not have the right to discovery or to take depositions.

Veto by Governor [C-6]: Delete provision.

[Act 109 Vetoed Sections: 38r, 121pb thru 121pu, 121v thru 121y, 145g, 145h, 232f, 359f, 1160rd, 1160ut, 9123(2w), 9223(18w), 9323(3yo) thru (3yzv) and 9423(1yv)]

8. MA AND BADGERCARE COPAYMENTS FOR PRESCRIPTION DRUGS

Assembly: Reduce MA benefits funding by $982,200 GPR and $1,382,600 FED in 2002-03 to reflect the estimated cost savings of increasing MA and BadgerCare copayments for brand name drugs from $1.00 to $2.00, effective July 1, 2002. The current $1.00 copayment for generic drugs and $0.50 copayments for over-the-counter drugs would not change. In addition, increase from $5.00 to $10.00 the maximum amount of copayments a recipient is required to pay in any month to each pharmacy from which the recipient receives drugs.

Senate/Legislature: Delete provision.

9. BADGERCARE ELIGIBILITY FOR UNBORN CHILDREN

Assembly: Require DHFS to allow a woman and her unborn children to be considered a family for purposes of determining eligibility under BadgerCare, if DHFS determines that federal law allows unborn children and their mothers to be eligible for the federal children's health insurance program (CHIP). If DHFS determines that federal law does not allow unborn children to be eligible under CHIP, require DHFS to request a waiver from the Secretary of the U.S. Department of Health and Human Services so that DHFS could allow unborn children and their mothers to be eligible for BadgerCare. Specify that if a waiver is granted and in effect, DHFS must administer BadgerCare as permitted in the waiver.

On March 6, 2002, the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) issued a proposed rule to modify the definition of child under the federal CHIP program to include unborn children so that states could provide prenatal care and coverage of delivery services to pregnant women under states' CHIP programs. It is not known when and if this rule will be finalized. The proposed rule also specifies that federal CHIP funding would not be available for services provided to the parents of unborn children if such services are eligible for reimbursement under a state's MA program.

BadgerCare currently operates under two separate waivers of federal MA and CHIP law. Since this provision would represent a change to the eligibility criteria for BadgerCare, it is

expected that DHFS would have to submit an amendment to the state's current waiver plan for approval by CMS.

Under this provision, unborn children and their mothers would be subject to the same financial and nonfinancial eligibility criteria as other BadgerCare applicants. In Wisconsin, pregnant women with household income up to 185% of the federal poverty level (FPL) are eligible for MA until approximately two months after the delivery of their child. This is the same income criteria required to be initially eligible for BadgerCare. However, no person is eligible for BadgerCare if that individual is also eligible for MA. Therefore, a pregnant woman with income at or below 185% of the FPL would already be eligible for MA and therefore could not be eligible for BadgerCare. Under this provision and the rule as proposed by CMS, an unborn child could be eligible for BadgerCare, but no federal CHIP funding would be available for expenditures on behalf of that child, since such expenditures would already be covered under Wisconsin's MA program as services provided to the pregnant mother.

Senate/Legislature: Delete provision.

10. MA -- DISEASE MANAGEMENT

Assembly: By January 1, 2003, require DHFS to issue a request-for-proposal (RFP) from entities that would submit proposals to engage in disease management activities on behalf of MA recipients.

Define "disease management" as an integrated systematic approach for managing the health care needs of patients who are at risk of or are diagnosed with a specific disease, using all of the following: (a) best practices; (b) prevention strategies; (c) clinical practice improvement; (d) clinical interventions and protocols; (e) outcomes research, information and technology; and (f) other tools and resources to reduce overall costs and improve measurable outcomes.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [C-7]: Delete the date by which DHFS would have been required to issue the RFP under this provision. In his veto message, the Governor indicates that he is directing the DHFS Secretary to issue the RFP by April 1, 2003.

[Act 109 Sections: 122c and 9123(2v)]

[Act 109 Vetoed Section: 9123(2v)]

11. HIRSP -- FUNDING

GPR	- $539,000

Governor/Legislature: Reduce GPR funding budgeted for the health insurance risk-sharing plan (HIRSP) by $539,000 in 2002-03 to reflect a 5% reduction in GPR funding budgeted for the program. This amount includes: (a) $500,000 from an appropriation used to offset total HIRSP costs; and (b) $39,000 from an appropriation used to support the cost of subsidies provided to low-income individuals enrolled in HIRSP.

HIRSP offers health insurance coverage to individuals with adverse medical histories and others who cannot obtain affordable health care coverage from the private sector. HIRSP is funded from policyholder premiums, assessments paid by health insurance companies doing business in Wisconsin, reduced payments to service providers and GPR. The GPR funding is used to: (a) reduce overall program costs ($10 million annually); and (b) reduce costs for premium and deductible subsidies for low-income HIRSP beneficiaries ($780,000 annually). After accounting for GPR funding used to reduce overall program costs, the remaining program costs are distributed between revenue from policyholders (60%), insurer assessments (20%) and reduced payments to providers (20%).

[Act 109 Sections: 9223(8)&(9)]

12. HIRSP -- PROHIBIT RECOVERY OF PHARMACY OVERPAYMENTS

Assembly: Prohibit DHFS from recovering from any person any part of a payment that was made for a prescription drug in HIRSP between July 1, 1998, and January 29, 2001, if DHFS issued a notice of intent to recover in December, 2001, to that person and the intended recovery is based on a DHFS determination that the person was incorrectly reimbursed under HIRSP due to the transition of administration for HIRSP from the Office of the Commissioner of Insurance (OCI) to DHFS. Require DHFS to return any such recovery DHFS received before the bill's general effective date. Define a "person" to include all partnerships, associations and bodies politic or corporate.

DHFS and the Legislative Audit Bureau found that HIRSP overpaid pharmacies for claims pharmacies submitted for drugs provided to HIRSP enrollees by an estimated $5.5 million during the period from July 1, 1998, through January, 2001. During this period, DHFS had instructed the plan's administrator to suspend controls that had limited HIRSP payments for drugs to the MA reimbursement rate for those drugs (the HIRSP program has the same reimbursement rate as MA for prescription drugs) and to simply pay the amount providers billed to the program. Providers were instructed to bill HIRSP at the MA reimbursement rate. The controls were suspended as a short-term measure to address confusion and complaints by pharmacies and policyholders regarding the transition of administration of HIRSP from OCI to DHFS. As a result, those providers that billed at a rate higher than the MA rate were reimbursed at the higher rate.

This provision would reduce revenue available to support HIRSP benefits, on a one-time basis, by the amount DHFS would otherwise recover from these pharmacies. HIRSP costs are funded by policyholders (60%), insurers (20%) and providers (20%). Any revenue DHFS collects from overpayments to pharmacies would be available to reduce costs that would otherwise be born by policyholders, insurers and providers. Providers contribute to HIRSP costs by accepting reduced reimbursements, except that DHFS is prohibited from reducing reimbursements to pharmacies for HIRSP-related costs. Therefore, the 20% of HIRSP costs that must be born by providers is distributed across all providers except pharmacies.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9123(4r)]

13. HIRSP -- PREMIUMS

Conference Committee/Legislature: Specify that premiums for HIRSP Plan 1A must initially be established at 140% to 150%, rather than 150% as specified in current law, of the rate that an individual considered a standard risk would be charged under an individual health insurance policy providing substantially the same coverage and deductibles as provided in Plan 1A. Further, require the HIRSP Board of Governors to approve premiums for Plan 1A. This provision would also apply to Plan 1B premiums because DHFS is required to use the same criteria for establishing premiums for Plan 1B as it uses for establishing premiums for Plan 1A.

Under current law, premiums for Plan 1A are initially established at 150% of the rate charged to an individual considered a standard risk under an individual policy providing substantially the same coverage and deductibles as Plan 1A. If premiums set at 150% of the standard risk rate are not sufficient to fund 60% of HIRSP costs, after accounting for GPR budgeted for the program, then premiums for Plan 1A can be increased to no more than 200% of the standard risk rate. The remainder of HIRSP costs are supported by revenue from assessments on health insurers operating in this state and reductions in payments to providers participating in HIRSP. Current law specifies that premiums for Plan 1B must be set in the same proportion to Plan 1A rates that applies to the difference between rates for an individual considered a standard risk for a plan comparable to Plan 1B and a plan comparable to Plan 1A.

Current law prohibits DHFS from establishing a budget for HIRSP, including the amount of revenue from premiums, insurer assessments and reduced provider payments necessary to support HIRSP costs without approval from the HIRSP Board of Governors.

Generally, HIRSP provides health insurance coverage to individuals that cannot receive health insurance coverage through the private market either because they are ineligible or such coverage is unaffordable, based on criteria specified in statute. Three plans are available under HIRSP. Plan 1A provides major medical coverage to individuals that are not eligible for Medicare and requires policyholders to meet a $1,000 annual deductible for medical costs (not including costs for prescription drugs). Plan 1B provides the same coverage as Plan 1A, except that individuals are required to meet a $2,500 annual deductible for medical costs (not including costs for prescription drugs), rather than the $1,000 deductible required under Plan 1A. Individuals participating in Plan 1A that meet certain income criteria may be eligible for a reduced deductible and reduced premiums. Individuals participating in Plan 1B are not eligible for such reductions regardless of income. Plan 2 is available only to individuals that are eligible for Medicare and provides major medical coverage only for those services and costs not covered by Medicare.

This provision would not apply to premiums for Plan 2 because current law specifies different criteria for setting premiums for Plan 2.

[Act 109 Sections: 336jc, 336jf, 336jh and 336jm]

14. HIRSP -- PLAN ADMINISTRATOR

Assembly: Reduce the HIRSP state operations appropriation by $609,600 SEG in 2001-02 and $451,300 SEG in 2002-03 to eliminate funding provided in Act 16 for costs to modify HIRSP-related systems to bring the systems into compliance with the final standards adopted under the administrative simplification provisions of the 1996 federal Health Insurance Portability and Accountability Act (HIPAA).

In addition, repeal the current provision that requires that the HIRSP plan administrator be the fiscal agent for the MA program. Instead, require DHFS to enter into a contract for administration of HIRSP with a vendor that has been selected through a competitive, request-for-proposal (RFP) process, effective July 1, 2003. Require the HIRSP Board of Governors to establish an oversight committees to address the selection of the plan administrator.

Require DHFS, the HIRSP Board of Governors and the Board's plan administrator selection committee to work together to: (a) develop and issue an RFP to be used to solicit contract proposals; (b) evaluate technical proposals and accompanying cost proposals submitted in response to the RFP; (c) request and evaluate best and final offers; (d) select a plan administrator and award a contract. Prohibit DHFS from awarding a contract to a vendor that does not have systems and processes in place that comply with the final standards adopted under the HIPAA administrative simplification provisions.

Specify that any contract awarded for the plan administrator would be for a term of three years, beginning on July 1 and ending on June 30th of the third year beginning after the year in which the contract begins. Specify that, with the concurrence of the HIRSP Board, DHFS could not negotiate more than two, one-year extensions of the contract. Prohibit an extension of the plan administrator contract beyond the original three-year contract and one, one-year extension in order to facilitate transition to a new vendor. Specify that HIRSP must be administered in the state, but the administration of the program may not be limited to any particular geographic location within the state.

Require the plan administrator to submit regular reports to DHFS, the HIRSP Board and the Board's plan administrator selection committee regarding the operation of HIRSP. Specify that the frequency, content and form of these reports would be determined by DHFS, the Board and the Board's plan administrator selection committee.

Senate/Legislature: Delete provision.

15. DISEASE AIDS [LFB Paper 1170]

Governor: Modify the disease aids program, which funds certain health services to persons with kidney disease, cystic fibrosis or hemophilia, to reduce state program costs, as follows.

Waiting Lists. Authorize DHFS to establish waiting lists for enrollment in the disease aids program if the amounts that are available for disease aids are insufficient to provide assistance to all persons who are eligible to receive assistance. Authorize DHFS to assign priorities to persons who are on waiting lists, based on criteria that DHFS would promulgate by rule.

Rates for Kidney Disease Services. Repeal the current requirement that the state pay for services provided under the kidney disease program at rates equal to the allowable charges under the federal Medicare program.

Payer of Last Resort. Specify that assistance under these programs may only be provided to an individual if he or she has applied for assistance under all other state-funded health care assistance programs for which the person may be eligible. Require DHFS to promulgate rules to define these other state-funded health care assistance programs, but specify that the these programs would include medical assistance, the health insurance risk-sharing plan, BadgerCare, SeniorCare and any other state-funded programs under which assistance may be payable for the treatment of kidney disease, cystic fibrosis or hemophilia. In addition, for the treatment of cystic fibrosis, specify that costs would be reimbursed for treatment, only if those costs are not reimbursable under Medicare or private health insurance.

Generally, under current law, the disease aids program is the payer of last resort. The following eligibility criteria apply: (a) for treatment of cystic fibrosis, persons must meet financial requirements established by DHFS by rule; (b) for aid to kidney disease patients, recipients must have no other form of aid available from Medicare or other insurance; and (c) for hemophilia treatment services, reimbursement is subject to costs which are not payable by any other state or federal program or under any grant, contract and any other financial arrangement.

Rules. Require DHFS to promulgate rules to contain the costs of assistance under the disease aids program. Provide that the rules could include managed care requirements.

A total of $4,932,000 GPR in both 2001-02 and 2002-03 is currently budgeted to support the disease aids program. DHFS estimates that $10,626,500 will be required to fully fund the program in the 2001-03 biennium, or $762,500 more than the biennial GPR amount currently budgeted for the program ($9,864,000). Provisions in 2001 Act 16 require DHFS to implement a drug rebate program for the disease aids program. It is possible that the projected shortfall in the disease aids program could be offset by revenue obtained from manufacturers' rebates. However, DHFS has not yet implemented the rebate program.

Joint Finance/Legislature: Delete provision.

16. SENIORCARE

Joint Finance/Legislature: Modify current law relating to the state's prescription drug assistance program created in Act 16 ("SeniorCare") provisions by: (a) specifying that MA recipients that do not receive MA prescription drug coverage would be eligible for SeniorCare; (b) specifying that individuals enrolled in MA under a demonstration project for SeniorCare would be eligible for SeniorCare; (c) clarifying that SeniorCare benefits are only available to the individual found eligible based on the eligibility criteria specified in statute. In addition, authorize DHFS to use information it collects from insurance companies to determine eligibility under BadgerCare and to determine third-party liability for participants in Family Care and SeniorCare.

These statutory changes would not affect the projected costs of SeniorCare, since these changes are consistent with the assumptions used to determine the funding provided in Act 16.

[Act 109 Sections: 100vp, 128p and 140p thru 140r]

17. LIMITATIONS ON HEALTH FACILITY CONSTRUCTION AND EXPANSION

Senate: Rename Subchapter VI of Chapter 150 of the statutes, from "Moratorium on Construction of Hospital Beds" to "Hospital and Ambulatory Surgery Center Limitations" and repeal all current provisions of that subchapter, except the provision that limits the maximum number of approved hospital beds in the state to 22,516.

Prohibition on New Certificate of Approvals to Operate a Hospital. Prohibit DHFS, after the bill's general effective date, from issuing an initial certificate of approval to operate a hospital except for a critical access hospital that is converted from a previously-approved hospital. A critical access hospital is defined under federal law as a hospital: (a) located in a county in a rural area and that, generally, is located more than a 35-mile drive from a hospital and is certified by the state as being necessary; (b) makes available 24-hour emergency care that the state determines is necessary for ensuring individuals in the area served by the hospital with access to emergency care; (c) provides not more than 15 acute care inpatient beds for providing inpatient care for a period that does not exceed, on annual average, 96 hours per patient; and (d) meets certain staffing requirements.

Prohibition on Expansion of Available Hospital Beds. Provide that, as a condition of approval to operate a hospital, no person may, by or on behalf of a hospital, increase the number of approved beds of the hospital that are available on the bill's general effective date.

Prohibition on Expansion of Available Services. Prohibit a hospital, as a condition of approval, or an ambulatory surgery center, from expanding an existing service of a hospital or an ambulatory surgery center unless the primary purpose of the expanded service is to provide free or reduced-cost health or dental care to individuals who are determined by DHFS to be underserved or have low income.

Prohibition on Construction of Facilities. Prohibit a hospital, as a condition of approval, or an ambulatory surgery center from engaging in construction, except: (a) to consolidate hospitals if the consolidation does not increase the number of available beds of the hospitals; (b) as a response to damage caused by a natural disaster, including an earthquake, or by fire; or (c) to eliminate a threat to the safety of patients, staff, or to the general public that is due to a physical defect of the hospital.

Define "construction" as the establishment, erection, building, purchase, or other acquisition of a hospital or ambulatory surgery center.

Prohibition on Upgrading Renovations. Prohibit a hospital, as a condition of approval, or an ambulatory surgery center, from engaging in upgrading renovations, except for routine maintenance to eliminate a threat to the safety of patients, staff, or the general public that is due to a physical defect of the hospital. Specify that, beginning January 1, 2003, "upgrading renovation" would be defined in rule.

Require DHFS to promulgate a rule that defines "upgrading renovation" and to submit in proposed form the rule to the Legislative Council staff no later than the first day of the fourth month beginning after the bill's general effective date. Authorize DHFS to promulgate the rule as an emergency rule.

Provide that if a hospital or an ambulatory surgery center seeks an opinion from DHFS concerning whether a proposed capital project violates the prohibition on upgrading renovations, DHFS would be required to issue an opinion. Provide that, if a hospital, after completing the project, is found to be in violation of the prohibition, the violation does not affect the status of the hospital's approval unless the actual, completed project differs materially from the proposed project for which DHFS has issued an opinion. Provide that, if an ambulatory surgery center seeks an opinion from DHFS regarding a proposed project and DHFS' opinion was that the proposed project did not violate the prohibition, the ambulatory surgery center cannot be found in violation of the prohibition unless the completed project differs materially from the proposed project for which DHFS issued the opinion.

Exemptions from Prohibitions. Specify that the prohibitions on new certificates of approval to operate a hospital, the expansion of hospital beds and services provided by hospitals and ambulatory surgery centers, the construction of facilities and upgrading renovations would not apply to the following projects:

- Phases of a hospital project approved by DHFS and for which a person has, prior to the effective date of the bill, obligated capital expenditures specified in the approval for the project's phase, secured financing in an amount sufficient to complete the project's phase, or undertaken substantial and continuing progress with respect to the project's phase;

- An entire hospital project, including project phases, approved by DHFS and for which a person has, prior to the effective date of the bill, obligated capital expenditures for the entire project, secured financing in an amount sufficient to complete the entire project, or undertaken substantial and continuing progress with respect to the entire project;

- Phases of a project for an ambulatory surgery center for which a person has, prior to the effective date of the bill, obligated capital expenditures for the project's phase, secured financing in an amount sufficient to complete the entire project phase, and undertaken substantial and continuing progress with respect to the entire project phase;

- An entire project of an ambulatory surgery center, including project phases, for which a person has, prior to the effective date of the bill, obligated capital expenditures for the entire project, secured financing in an amount sufficient to complete the entire project, and undertaken substantial and continuing progress with respect to the entire project; and

- St. Mary's Medical Center or St. Luke's Hospital in Racine County.

Requirement to Serve MA and Medicare Recipients. Require a hospital, as a condition of a certificate of approval, and ambulatory surgery centers, to apply for certification as an MA and Medicare provider within 60 days after the bill's general effective date and accept as patients individuals who are MA and Medicare recipients if the hospital is certified to accept these patients.

Requirement to Operate a 24-hour Emergency Room. Require all hospitals, as a condition of approval, to operate a 24-hour emergency room. Hospitals approved as of the effective date of the bill could instead, by the first day of the ninth month following the bill's effective date, enter into an agreement with another hospital with a 24-hour emergency room, under which the other hospital consents to receive patients in need of emergency care that are transferred to it by the hospital that does not operate a 24-hour emergency room. Exempt hospitals that are defined as "inpatient facilities" under Chapter 51 and rehabilitation hospitals from this requirement. An "inpatient facility" is defined under Chapter 51 as a hospital or unit of a hospital which provides 24-hour care and, has as its primary purpose, the diagnosis, treatment and rehabilitation of mental illness, developmental disabilities and alcoholism or drug abuse.

Revocation or Suspension of a Certificate of Approval. After giving reasonable notice, a fair hearing and, if DHFS determines appropriate, a reasonable opportunity to comply, authorize DHFS to revoke or suspend a certificate of approval for a hospital that: (a) violates the new prohibitions and limitations on expansions, new constructions and upgrading renovations; (b) fails to apply for certification under MA or Medicare and accept MA and Medicare recipients; or (c) does not meet the new 24-hour emergency room requirement. Specify that the authority to revoke or suspend a certificate of approval due to a hospital's failure to comply with the requirement to apply for certification as an MA and Medicare provider only applies until the first day of the third month following publication of the bill.

Other. Define "ambulatory surgery centers" and "critical access hospitals" by referencing definitions in federal law.

Current Law. Under current law, DHFS must issue a certificate of approval to maintain a hospital for any facility that applies for, and meets specified criteria. DHFS is required to promulgate, adopt, amend and enforce rules and standards for the construction, maintenance and operation of the hospitals deemed necessary to provide safe and adequate care and treatment of patients in the hospital and to protect the health and safety of the patients and employees. DHFS collects fees from applicants for its costs related to certificate of approval activities and plan reviews for hospital capital construction and remodeling projects.

Federal law defines an ambulatory surgery centers as any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, participates in Medicare, and meets certain other conditions regarding management, services and quality. Ambulatory surgery centers are not required to be licensed

by the state. However, in order to be certified as an MA provider, an ambulatory surgery center must be certified to participate in the federal Medicare program.

Conference Committee/Legislature: Delete provision.

Public Health

1. GRANTS FOR COMMUNITY HEALTH CENTERS [LFB Paper 1167]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR	- $3,075,000	$3,075,000	$0

Governor: Delete $3,075,000 in 2002-03 and repeal the community health center grant program, effective July 1, 2002.

Grants to FQHCs. In 2002-03, $3,000,000 GPR is budgeted to supplement federal funds federally qualified health centers (FQHCs) receive under the Public Health Service Act to support their operations. There are currently 14 health centers that qualify for grants, including: Beloit Area Community Center, Bridge Community Health Clinic in Wausau, Family Health Center of Marshfield, Milwaukee Health Services, Kenosha Community Health Center, Lake Superior Community Health Center in Superior, North Woods Community Health Centers in Minong, Northern Health Centers in Lakewood, Scenic Bluffs Community Health Center in Cashton, Sixteenth Street Community Health Center in Milwaukee, Westside Healthcare Association in Milwaukee, Family Medical and Dental Center in Wautoma, Health Care for the Homeless of Milwaukee and N.E.W. Community Clinic in Green Bay.

Other Grants. Under the program, DHFS is required to annually provide: (a) $50,000 to a community health center in a 1st class city (currently the Sixteenth Street Community Health Center in Milwaukee); and (b) $25,000 to Health-Net of Janesville, Inc.

Joint Finance: Adopt the Governor's recommendation. In addition, require DHFS, in consultation with the Wisconsin Primary Health Care Association, Inc., to conduct a review of federal funding available to health clinics and organizations under s. 330 of the Public Health Service Act. Specify that the study would include: (1) a review of statutory, regulatory and policy requirements for grantees currently supported under the program and potential grant applicants; and (2) suggestions for expanding the number of FQHCs in Wisconsin and the

number of sites operated by organizations currently funded under the program and other ways to increase the amount of federal funding for Wisconsin health care clinics. Require DHFS to submit a report of the study to the Joint Finance Committee and the Legislature no later than June 30, 2002.

Assembly: Delete provisions that would repeal the grant program but retain the Joint Finance provision relating to the DHFS study. Provide $1,500,000 GPR in 2002-03 to partially restore funding for grants to FQHCs, but require DHFS to lapse this amount from the appropriation in 2002-03. As a result, no funding would be available for grants in 2002-03. Base funding for grants in the 2003-05 biennium would be established at $1,500,000 annually.

In addition, require DHFS to include, in its 2003-05 biennial budget request, a proposal that would distribute any future state funding budgeted for community health care centers based on the funding needs of the individual community health care centers.

Senate: Delete provision.

Conference Committee/Legislature: Delete the provision that would repeal the grant program, but retain the Joint Finance provision relating to the DHFS study on federal funding. In addition, authorize DHFS to carry over funds budgeted in 2001-02 for rural dental health clinics for 2002-03. Specify that any carryover funds would not be incorporated into the base funding level for purposes of the Department's 2003-05 biennial budget request.

Veto by Governor [C-4]: Delete the provision requiring DHFS, in consultation with the Wisconsin Primary Health Care Association, Inc., to conduct a review of federal funding available to health clinics and organizations under s. 330 of the Public Health Service Act.

[Act 109 Sections: 9123(1z)&(3f) and 9223(18z)]

[Act 109 Vetoed Section: 9123(3f)]

2. STATEWIDE TRAUMA CARE SYSTEM [LFB Paper 1168]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	$500,000	2.00	- $102,000	0.00	$398,000	2.00

Governor: Provide one-time funding of $500,000 and 2.0 project positions in 2002-03, to support activities relating to the development of the statewide trauma care system. This item includes: (a) $80,000 for 1.0 trauma registrar to develop and implement a statewide trauma care database; (b) $80,000 for 1.0 injury education coordinator to develop injury prevention training

and education programs and assist with performance improvement activities; (c) $290,000 for grants to regional trauma advisory councils; and (d) $50,000 for regional advisory council meeting expenses.

1997 Act 154, as amended by 1999 Act 9 and 2001 Act 16, requires DHFS to develop and implement a statewide trauma care system by July 1, 2002. DHFS is required to promulgate rules to implement the system, including a method by which to classify hospitals as to their respective emergency care capabilities. Hospitals are required to classify the level of trauma care services they provide within 180 days after the rules are promulgated, and every three years thereafter.

Under the DHFS plan for the system, regional trauma advisory councils, made up of hospitals, providers and other stakeholders, would be required to develop and evaluate local protocols, develop agreements between local providers, analyze regional trauma data, improve trauma care capabilities, develop injury prevention and education strategies and educate and train regional emergency medical service and dispatch providers.

Joint Finance: Modify the Governor's proposal, as follows.

Funding. Reduce funding by $102,000 in 2002-03 to reflect lower projected costs of meetings and grants. The original DHFS plan identified costs associated with 10 regions with councils of 30 members each. However, DHFS has identified seven regions for which funding would be needed.

Statutory Changes. Make the following statutory changes: (a) eliminate the July 1, 2002, statutory deadline for DHFS to implement the trauma system; (b) extend the current statutory sunset date for the Statewide Trauma Advisory Council from July 1, 2002, to July 1, 2003; (c) authorize DHFS to create regional trauma advisory councils; and (d) require DHFS to include in its expenditure plan for one-time federal bioterrorism funds available to states under P.L. 107-117 additional support for the development and implementation of the trauma care system, to the extent allowable under federal law. In addition, require DHFS to submit to the Joint Committee on Finance for its review and approval, its expenditure plan for the federal bioterrorism response and preparedness funds before it submits the plan to the U.S. Department of Health and Human Services (DHHS).

DHHS notified Wisconsin that the state will receive approximately $19.3 million FED for bioterrorism response activities. DHHS indicates that 20% of these funds will be made available to states immediately and the remaining amount will be released subject to federal approval of a plan submitted by states, no later than April 15, 2002. The funds must be spent or encumbered by August 20, 2003.

Senate: Delete $398,000 GPR and 2.0 GPR positions in 2002-03 to eliminate state funding for the trauma care system, but retain the statutory changes added by the Joint Committee on Finance.

Conference Committee/Legislature: Include Joint Finance provision.

Veto by Governor [C-5]: Delete the provision that would have required DHFS to include additional support for the development and implementation of the trauma care system in its expenditure plan for one-time federal bioterrorism funds.

[Act 109 Sections: 14d, 334g and 9223(1)]

[Act 109 Vetoed Section: 9123(2g)]

3. SURVEILLANCE OF DISEASES AND POTENTIAL THREATS [LFB Paper 1169]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	$162,900	2.50	- $162,900	- 2.50	$0	0.00

Governor: Provide $162,900 and 2.5 positions in 2002-03 to perform surveillance of communicable and infectious diseases and biological and chemical potential threats to state residents. The positions include 2.0 epidemiologists and 0.5 program assistant.

DHFS is currently authorized 1.0 epidemiologist funded by a federal Centers for Disease Control and Prevention grant for bioterrorism preparedness.

Joint Finance/Legislature: Delete provision. Instead, direct DHFS to include, in its plan for the use of one-time federal bioterrorism funds available to states under P.L. 107-117, support for positions to perform these activities, to the extent permissible under federal law. In addition, require DHFS to submit to the Joint Committee on Finance for its review and approval its expenditure plan for the federal bioterrorism response and preparedness funds before it submits the plan to the U.S. Department of Health and Human Services (DHHS).

DHHS notified Wisconsin that the state will receive approximately $19.3 million FED for bioterrorism response activities. DHHS has indicated that 20% of this funding will be available to states immediately and the remaining amount will be released subject to federal approval of a plan submitted by states no later than April 15, 2002. The funds must be spent or encumbered by August 30, 2003.

Veto by Governor [C-5]: Delete provision.

[Act 109 Vetoed Section: 9123(2g)]

4. PUBLIC HEALTH EMERGENCIES

Assembly: Incorporate the provisions of Assembly Bill 850, as amended and passed by the Assembly, into the bill. AB 850 relates to declarations of, and actions under public health emergencies.

Definitions. Define "biological agent" as any of the following: (a) a select agent that is a virus, bacterium, rickettsia, fungus or toxin specified under the Federal Register; (b) a genetically modified microorganism or genetic element from an organism that is shown to produce or encode a factor associated with a disease; (c) a genetically modified microorganism or genetic element that contains nucleic acid sequences coding for a toxin or its toxic subunit; or (d) an agent specified by DHFS, by rule.

Define "bioterrorism" as the intentional use of any biological, chemical or radiological agent to cause death, disease or biological malfunction in a human, animal, plant or other living organism in order to influence the policy of a governmental unit or to intimidate or coerce the civilian population.

Define "chemical agent" as a substance that has chemical properties that produce lethal or serious effects in plants or animals.

Define "public health emergency" as the occurrence or imminent threat of an illness or health condition that: (a) is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent; (b) poses a high probability of a large number of deaths or serious or long-term disabilities among humans or a high probability of widespread exposure to a biological, chemical or radiological agent that creates a significant risk of substantial future harm to a large number of people.

Define "radiological agent" as radiation or radioactive material at a level that is dangerous to human health.

Designation of Lead Agency and Funding Authority. Authorize the Governor to designate DHFS as the lead agency to respond to an emergency if the Governor determines that a public health emergency exists and declares a state of emergency related to public health. Under current law, the Department of Military Affairs Division of Emergency Government is the lead state agency to respond to a state of emergency called by the Governor.

Create a sum sufficient GPR appropriation in DHFS that would authorize DHFS to defray all expenses necessary to respond to a public health state of emergency if the Governor declares such an emergency and designates the DHFS as the lead agency.

Modify the existing disaster recovery aid sum sufficient GPR appropriation in DMA that would authorize DMA to defray expenses related to a public health state of emergency only if DHFS is not designated the lead state agency by the Governor.

Authorize the Governor to suspend provisions of any administrative rule if strict compliance with the rule would prevent, hinder, or delay necessary actions to respond to an emergency related to public health and increase the health threat to the population. Currently, the statutes provide the Governor authority to protect the public in the event of a state of emergency, including the authority to issue orders he or she deems necessary for the security of persons and property.

Require the agency designated as the lead agency to respond to a public health emergency to report to the Legislature and the Governor, no later than 90 days after the termination of the emergency on: (a) the emergency powers used by the lead agency or its agents; and (b) the expenses incurred in responding to the public health emergency.

Preparedness Report. Require DHFS, after consulting with the adjutant general, local health departments, health care providers and law enforcement agencies, to report biennially to the Legislature and Governor, beginning on July 1, 2002, on the preparedness of the public health system to address public health emergencies.

Public Health Authority – Compulsory Vaccinations, Isolation and Local Health Departments. Provide that if DHFS were designated as the lead agency to respond to a state of emergency related to public health, DHFS would act as the public health authority during the period of the state of emergency.

Authorize DHFS, as the public health authority, to do all of the following necessary to address a public health emergency.

- Purchase, store or distribute antitoxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents or medical supplies that DHFS determines are advisable to control a public health emergency. Funding would be provided from the new sum sufficient, GPR appropriation in DHFS.

- Order any individual to receive a vaccination unless the vaccination is reasonably likely to lead to serious harm to the individual or unless the individual refuses for reasons of religion or conscience.

- Isolate or quarantine any individual who is unable or unwilling to receive vaccination, and quarantine contacts, require concurrent and terminal disinfection, or modified forms of theses procedures, as determined by rule. Prohibit persons, other than persons authorized by the public health authority, or its agent, to enter an isolation or quarantine premises. Create a penalty for violating this provision of a fine not to exceed $10,000 or imprisonment not to exceed nine months, or both. In addition, provide that a person who enters such a premise, whether authorized or not, may be subject to isolation or quarantine. Provide that any expense of providing a reasonable means of communication for a person quarantined outside of his or her home would be paid either from the DHFS sum sufficient public health emergency appropriation or the DMA sum sufficient disaster recovery appropriation, whichever is appropriate.

- Inform state residents, by all available and reasonable means, including reasonable efforts to make the information accessible to individuals with disabilities and individuals who do not understand English, of all of the following: (a) when a state of emergency related to public health has been declared or terminated; (b) how to protect themselves from a public health emergency; and (c) what actions the public health authority is taking to control the emergency.

- Designate a local health department (LHD) as an agent of DHFS and confer upon the LHD, acting under the agency, the powers and duties of the public health authority. Permit DHFS to reimburse a LHD for reasonable and necessary expenses in acting as an agent of DHFS from the new GPR sum sufficient appropriation.

Require DHFS to consult, to the extent possible, LHDs, whether or not designated as agents of DHFS, and with individual health care providers.

Require DHFS to promulgate rules that specify circumstances, if any, under which vaccination may not be performed on an individual.

Disposal of Human Remains. Authorize a public health authority to do any of the following with regard to disposal of human remains during a state of emergency relating to public health:

- Issue and enforce orders that are reasonable and necessary to provide for the safe disposal of human remains, including embalming, burial, cremation, interment, disinterment, transportation and other disposal;

- Take possession and control of any human remains;

- Order the disposal, through burial or cremation, of any human remains of an individual who has died of a communicable disease, within 24 hours after the individual's death and consider, to the extent feasible, the religious, cultural or individual beliefs of the deceased individual or his or her family in disposing of the remains;

- If reasonable and necessary for emergency response, require a funeral establishment, as a condition of its permit, to accept human remains or provide the use of business or facility, including transferring the management and supervision of the funeral establishment to the public health authority, for a period of time not to exceed the period of state emergency. Any reasonable and necessary costs relating to these requirements would be reimbursed by DHFS from the new GPR sum sufficient appropriation for public health emergencies;

- Require the labeling of all human remains before disposal with all identifying information and information concerning the circumstances of death, and require that the human remains of an individual with a communicable disease be clearly tagged to indicate that the remains contain a communicable disease and, if known, the specific communicable disease;

- Maintain or require the maintenance of a written or electronic record of all human remains that are disposed of, including all available identifying information and information concerning the circumstances of death and disposal. If it is impossible to identify the human remains prior to disposal, permit the public health authority to require that a qualified person obtain any fingerprints, photographs or identifying dental information, and collect a specimen of DNA from the human remains and transmit it to the public health authority; and

- Authorize a county medical examiner or coroner to appoint emergency assistant medical examiners or emergency deputy coroners, whichever is applicable, if necessary to perform the duties of the office of medical examiner or coroner, and to prescribe the duties of the emergency assistant medical examiners or emergency deputy coroners, not to exceed the period of the state of emergency. Permit a county medical examiner or coroner to terminate the emergency appointment before the end of the state emergency, if termination would not impede the duties of his or her office. Authorize DHFS to reimburse counties for the cost of any emergency medical examiners or emergency deputy coroners from the new GPR, sum sufficient appropriation for public health emergencies.

Reporting Potential Causes of Public Health Emergency. Require a pharmacist or pharmacy to report to DHFS all of the following: (a) an unusual increase in the number of prescriptions dispensed or nonprescription drug products sold for the treatment of medical conditions as specified by DHFS, by rule; (b) an unusual increase in the number of antibiotic drug prescriptions dispensed; and (c) dispensing of a prescription for treatment of a disease that is relatively uncommon or may be associated with bioterrorism.

Unless requested by DHFS, prohibit a pharmacist or pharmacy from reporting personally identifying information concerning an individual who is dispensed or purchases such a prescription or nonprescription drug product. If DHFS requests information, require a pharmacy or pharmacist to report personally identifying information, other than a social security number.

Modify current law which requires certain health care providers to report instances of communicable disease if the health care provider knows that a person he or she has treated has a communicable disease, or has died of communicable disease to the local health officer to: (1) provide that a report would be required if the health care provider believes that a person that he or she has treated has, or has died of, a communicable disease; and (2) expand the definition of health care provider required to report such instances to include any type of health care provider, as defined by statutes, for purposes of health care records.

Reporting Communicable Disease among Animals. Require DATCP to provide DHFS with any reports by veterinarians of the existence of communicable diseases among animals.

Reporting Deaths of Public Concern. Require a coroner or medical examiner to report an illness or health condition that the coroner or medical examiner believes is caused by bioterrorism or a novel or previously controlled eradicated biological agent to DHFS, and the LHD, in writing or by electronic transmission within 24 hours of learning of the deceased's illness or health condition.

Require the report to include: (a) the illness or health condition of the deceased; (b) the name, date of birth, gender, race, occupation and home and work addresses of the deceased; (c) name and address of the coroner or medical examiner; and (d) if the illness or health condition was related to an animal or insect bite, the suspected location where the bite occurred and the name and address of the owner, if identified, of the animal or insect.

State Laboratory of Hygiene. Require the State Laboratory of Hygiene (SLOH) Board to create and maintain a roster of scientists and other persons with technical expertise who are willing to work for the SLOH if the Governor declares a public health emergency. Require the Board to hire LTEs, as needed, from the roster to assist DHFS, in its duties as the public health authority. Provide that salaries, benefits and training of these persons would be paid from a new sum sufficient, GPR appropriation in SLOH, created for this purpose. Modify the current definition of "active service" with regard to reemployment rights to include active service with SLOH for the purpose of assisting DHFS during a state of emergency relating to public health, so that those persons would receive the same reemployment rights as currently provided to members of the National Guard or the state defense force that are called into active duty.

Hospital Emergency Staffing System Requirements. Modify current rules and standards relating to hospital regulations to include a requirement that each hospital develop and maintain a system under which the hospital may grant emergency staff privileges to health care providers that: (a) seek to provide care at the hospital during a public health emergency declared by the Governor; (b) do not have staff privileges at the hospital at the time that the emergency is declared; and (c) have staff privileges at another hospital. Specify that hospitals that grant emergency staff privileges would be immune from civil liability for acts or omissions by health care providers that are granted such emergency staff privileges.

Rules. Require DHFS to promulgate rules relating to compulsory vaccinations during a state of emergency and prescription and nonprescription drug products that pharmacists and pharmacies would be required to report, no later than the first day of the six month after the effective date of the bill. Authorize DHFS to promulgate such rules as emergency rules, which would be subject to the current 150 day effective period for emergency rules, but could be extended by up to an additional 120 days, without a finding of emergency and without providing evidence that the rule is necessary for the preservation of public peace, health, safety, or welfare.

*Effective Date***.** The provisions would take effect on the first day after publication, except for the provisions relating compulsory vaccinations during a state of emergency and prescription and nonprescription drug products that pharmacists and pharmacies would be required to report, which would take effect under the emergency rules promulgated by DHFS, no later than the first day of the fifth month after publication.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [C-3]: Delete the two new appropriations and the modification to the existing disaster recovery aid appropriation. In addition, delete provisions that would have authorized DHFS to fund the following specific types of expenses: (a) funeral establishments for reasonable and necessary expenses in complying with new requirements relating to the disposal of human remains during a public health emergency; (b) counties for the cost of emergency medical examiners and emergency deputy coroners appointed during a public health emergency; (c) the expense of providing a reasonable means of communication for a person who is quarantined outside his or her home during a public health emergency; and (d) local health departments for reasonable and necessary expenses in acting as an agent of DHFS during a public health emergency. Finally, delete the July 1, 2002, deadline for the first report DHFS must submit on the preparedness of the public health system to address public health emergencies.

[Act 109 Sections: 72em thru 72eu, 93d, 148n, 260g, 260h, 338g, 340g thru 340n, 367p thru 368r, 464be, 1151r, 9123(2zw)&(2zx) and 9423(2zw)&(2zx)]

[Act 109 Vetoed Sections: 32p, 37n, 42x, 93d, 338g, 367s, 367t and 368t]

5. EMERGENCY MEDICAL SERVICES TERRORISM RESPONSE TRAINING REQUIREMENTS

Governor/Legislature: Require individuals to satisfactorily complete training for response to acts of terrorism to initially qualify for, or renew either: (a) a license as an

emergency medical technician; or (b) a certificate as a first responder. This requirement would first apply to applications for initial licenses, certifications and renewals submitted on January 1, 2003.

Define "act of terrorism" as a felony committed with the intent to terrorize in which the person committing the felony does any of the following: (1) causes bodily harm, great bodily harm or death to another; (2) causes damage to the property of another where the damage results in reduced value of the property of $25,000 or more (the reduction in value would be determined by the lessor of the costs to either repair or replace the property); or (3) uses force or violence or the threat of force or violence. Define "intent to terrorize" as intent to influence the policy of a governmental unit by intimidation or coercion, to punish a governmental unit for a prior policy decision, to affect the conduct of a governmental unit by homicide or kidnapping, or to intimidate or coerce a civilian population. Define "governmental unit" as the United States, the state, any county, city, village or town, or any political subdivision, department, division, board or agency thereof.

[Act 109 Sections: 326 thru 329, 330 thru 333, 334, 623, 696 and 9323(1)]

6. UNIFORM FEES FOR CERTAIN HEALTH CARE RECORDS

Senate: Incorporate the provisions of Senate Bill 71 (as modified to reflect a date change), which would require DHFS to promulgate rules to prescribe uniform fees health care providers could charge for duplicate patient health care records and x-ray reports, or referral of x-rays to another health care provider of the patient's choice, that are based on an approximation of the actual costs. Require the rules to also permit the health care provider to charge for actual postage or other actual delivery costs.

Require DHFS to submit the proposed rules to the Legislative Council no later than the first day of the fifth month after the effective date of the bill. Specify that, beginning January 1, 2003, the fees established by rule, plus applicable state tax, would be the maximum amount that a health care provider could charge for those records.

Specify that the same fees would apply to health care records of certain health care providers that have been subpoenaed, whether or not a court action has commenced. Provide that, for subpoenaed health care records requested before January 1, 2003, the current fees set by DHFS rule, plus applicable state taxes, would be the maximum amount a health care provider could charge for copies of those records. A court action would not have to be commenced in order for the maximum fee amount to apply.

Under current law, health care providers may charge reasonable costs for providing copies of a patient's health care record, x-ray report, or referral of an x-ray to another health care provider to a patient. For subpoenaed health care records, DHFS sets the fees for copies of

those records by rule, based on the approximate cost of providing a copy of the record. The rule must allow providers to charge postage or other delivery costs.

Conference Committee/Legislature: Modify the Senate provision as follows: (a) require DHFS to appoint an advisory committee whose members represent a balance of persons who maintain patient health care records and persons who request patient health care records to develop rules for uniform fees for copies of health care records; (b) provide that DHFS, in determining an approximation of actual costs, may consider operating expenses (such as wages, rent, utilities and duplication equipment and supplies), varying costs of retrieval of records based on different media on which the records are maintained, the cost of separating requested patient health care records from those that are not requested, the cost of duplicating the records and the impact on costs of advances in technology; (c) specify that the prescribed fees plus applicable tax would be the maximum amount that a health care provider may charge; (d) require DHFS to submit the proposed rules to the Legislative Council no later than the first day of the 10th month beginning after the effective date of the bill; (e) require the rules to be in place by January 1, 2003, and that the changes as to what fees may be charged would take effect January 1, 2003; and (f) require DHFS to revise the rules by January 1, 2006, and every three years thereafter to account for increases or decreases in the actual costs of providing copies of health care patient records.

[Act 109 Sections: 336f thru 336h, 523p, 523q, 9123(4g) and 9423(3f)]

7. AMBULANCE STAFFING REQUIREMENTS

Senate: Incorporate the provisions of Senate Bill 267, as passed by the Senate, into the bill. These provisions would modify DHFS' authority to promulgate rules to establish ambulance staffing standards by instead authorizing DHFS to promulgate rules that establish standards for DHFS approval of operational plans for ambulance staffing. Specify that the rules could permit DHFS to approve an operational plan for services that an emergency medical technician-paramedic is authorized to provide that is submitted by an ambulance service provider that provided these services before January 1, 2000, only if the operational plan specifies all of the following for the transport of a patient in a pre-hospital setting:

- The ambulance service provider ensures, in writing, that the ambulance is staffed with at least two EMT-paramedics, licensed registered nurses, licensed physician assistants or physicians or a combination of any two of these, who are trained in the use of all skills authorized by rule for an emergency medical technician-paramedic and are designated by the medical director of the ambulance service.

- The ambulance staff is dispatched from the same site, together to the scene of an emergency. (This provision would not apply to an ambulance services provider that dispatched ambulance staff from multiple sites to the scene of an emergency as of October 1, 2001.)

• If an EMT-paramedic arrives at the scene of an emergency before the arrival of the ambulance staff, the EMT-paramedic may provide services using all skills authorized by rule for an EMT-paramedic.

Rules that affect ambulance services providers that did not provide services before January 1, 2000, would not be subject to these provisions.

Under current law, an ambulance transporting a sick, disabled or injured individual must have present in the ambulance either: (1) any two emergency medical technicians, licensed registered nurses, licensed physician assistance or physicians, or combination thereof; or (2) one licensed EMT plus one individual with an EMT training permit. However, notwithstanding those requirements, DHFS may promulgate rules that establish standards for staffing of ambulances in which the primary services provided are those that can be provided by an EMT-intermediate or an EMT-paramedic.

Conference Committee/Legislature: Modify the Senate provision to specify that the rules that would apply to ambulance service providers that provided services before January 1, 2000, could allow for staffing with one EMT during an emergency if there is an agreement for sharing emergency services in place between a town, village, city and another town, village or city.

Veto by Governor [C-2]: Delete provision.

[Act 109 Vetoed Sections: 329r thru 329v and 333h]

8. MULTIPLE SCLEROSIS EDUCATION

Senate/Legislature: Require DHFS, as part of the well-woman program, to conduct a multiple sclerosis education program to raise public awareness concerning the causes and nature of multiple sclerosis and options for diagnosing and treating multiple sclerosis.

[Act 109 Section: 369gh]

9. RESTRICTIONS ON PUBLIC FUNDING FOR ABORTION-RELATED ACTIVITIES

Assembly: Incorporate the provisions of Assembly Bill 831, as amended by Assembly Amendment 1, into the bill. These provisions would increase restrictions on public funding for abortion-related activities.

Current Law

Under current law, no state agency or local governmental unit may authorize the payment

of funds of the state, of any local governmental unit or federal funds passing through the state treasury, or other funding that wholly or partially or directly or indirectly involves specified pregnancy programs, projects or services that: (a) provide abortion services; (b) promote, encourage or counsel in favor of abortion services; or (c) make abortion referrals either directly or through an intermediary in any instance other than when abortion is directly and medically necessary to save the life of the pregnant woman. A "pregnancy program, project or service" is defined as a program, project or service of an organization that provides services for all of the following: pregnancy prevention, family planning, pregnancy testing, pregnancy counseling, prenatal care, pregnancy services and reproductive health care services that are related to pregnancy.

This provision does not prohibit these programs from providing nondirective information explaining: (a) prenatal care and delivery; (b) infant care, foster care or adoption; or (c) pregnancy termination.

Assembly Bill 831 as Amended by AA 1

Definitions. Expand the definition of "pregnancy program, project or service" to which restrictions apply to include a program, project or service of an organization that provides services for any of the following: pregnancy testing, pregnancy counseling, prenatal care, pregnancy services, or reproductive health care services that are related to pregnancy. Under current law, the definition of a pregnancy program, project or service to which these restrictions apply includes programs, projects or services that provide all of those services.

Define "family planning" as the process of establishing objectives for the number and spacing of one's children and selecting the means by which those objectives may be achieved, including a broad range of acceptable and effective methods and services to limit or enhance fertility, including: (1) contraceptive methods, including natural family planning and abstinence; (2) the management of infertility, including adoption; and (3) preconceptional counseling, education and general reproductive health care, including diagnosis and treatment of infections that threaten reproductive capacity. Family planning would not include pregnancy care, including obstetric or prenatal care.

Define "prenatal care" as medical services provided to a pregnant woman to promote maternal and fetal health.

Prohibition of Public Funding. Expand the prohibitions on the use of public funds for pregnancy programs that engage in certain abortion-related activities to include all public funding for pregnancy-related programs, instead of the programs currently enumerated in statute. Exceptions would be made for: (1) medical assistance; (2) BadgerCare; and (3) abortions that are determined to be directly and medically necessary to save the life of a woman, or in the case of sexual assault or incest.

Prohibit any organization that receives applicable public funding for pregnancy-related programs from engaging in any of the specified abortion-related activities, regardless of the funding source used to support those activities. Under current law, restrictions apply only to the use of the affected public funding.

Repeal the current provision that specifies that restrictions on the use of funds for certain abortion-related activities apply only to the extent that the restrictions do not result in the loss of federal funds.

Expand the types of abortion-related activities that would make a program, project or serve ineligible for public funding to include: (a) acting to assist women to obtain abortions; (b) acting to increase the availability or accessibility of abortion for family planning purposes; (c) lobbying for the passage of legislation to increase in any way the availability of abortion as a method of family planning; (d) providing speakers to promote the use of abortion as a method of family planning; (e) paying dues to a group that as a significant part of its activities advocates abortion as a method of family planning; (f) using legal action to make abortion available in any way as a method of family planning; and (g) developing or disseminating in any way materials, including printed matter and audiovisual materials, advocating abortion as a method of family planning.

Repeal the authority of a public-funded pregnancy program, project or service to provide nondirective information about pregnancy termination and instead, specify that the restriction does not prohibit a program, project or service that receives these public funds to promote, encourage or counsel in favor or, or refer either directly or through an intermediary, for prenatal care and delivery and infant care, foster care or adoption.

Prohibitions on Affiliated Organizations. Extend the prohibitions to include organizations that are affiliated with organizations that engage in abortion-related activities unless the organizations are physically and financially independent from each other and meet all of the following criteria:

- The organization the receives applicable public funds and its independent affiliate that engages in abortion-related activities are not located in the same building, and do not share any of the following: (a) the same or similar name; (b) medical or nonmedical facilities, including treatment, consultation, examination or waiting rooms or business offices; (c) equipment or supplies, including computers, telephone systems, telecommunications equipment, vehicles, office supplies or medical supplies; (d) services, including management, accounting or payroll services, or equipment or facility maintenance; (e) income, grants, donations of cash or property, in-kind gifts or other revenue; (f) financial accounts, including checking accounts, savings accounts and investments; (g) fund-raising activities; (h) expenses; (g) employees; (h) employee wages or salaries; (i) databases, including client lists; and (j) marketing materials and other promotional products.

• The organization that receives applicable funds is separately incorporated from an independent affiliate that engages in abortion-related activities;

• The organization that receives applicable funds maintains financial records and database records that demonstrate that its independent affiliate that engages in abortion-related activities receives no direct or indirect economic or marketing benefit from the applicable public funding. Specify that separation of program funds from other moneys solely by bookkeeping would not be sufficient to meet these requirements.

Application to Medical Schools and Medical Residency School Programs. Provide that the restrictions would apply only to the extent that the application of the restrictions would not result in the loss, by a medical school or medical residency program in the state, of accreditation from a national accrediting organization or agency.

Audits. Require the Legislative Audit Bureau (LAB) to conduct an audit, at least once every three years, to determine if these requirements have been strictly complied with, including audits of: (1) each organization that receives applicable public funding; and (2) the state agency or local governmental unit that authorizes payment of the funds to the organization. Require the LAB to audit organizations that are affiliated with organizations that engage in abortion-related activities at least annually.

Penalties. Authorize a person to file a petition for a writ of mandamus or prohibition with the circuit court for the county where a violation of these prohibitions is alleged to have occurred or proposed to occur.

Effective Dates. Specify that the expansions on prohibitions of public funding for abortion-related activities would first apply to: (1) contracts on the day on which the contract expires or is extended, modified or renewed, whichever occurs first; and (2) to employees who are affected by a collective bargaining agreement that contains provisions that are inconsistent with these provisions, on the day on which the collective bargaining agreement expires or is extended, modified or renewed, whichever occurs first.

Legislative Intent. Express the Legislature's intent that these provisions will further the profound and compelling state interest in all of the following: (a) to protect the life of an unborn child throughout pregnancy by favoring childbirth over abortion and implementing that value judgment through the allocation of public resources; (b) to ensure that the state, state agencies and local governmental units do not lend their imprimatur to abortion-related activities; and (c) to ensure that organizations that engage in abortion-related activities do not receive a direct or indirect economic or marketing benefit from public funds.

Senate/Legislature: Delete provision.

10. EMERGENCY CONTRACEPTION FOR ALLEGED VICTIMS OF SEXUAL ASSAULT

Senate: Incorporate the provisions of Senate Bill 391 into the bill, which would require a hospital that provides emergency services to an alleged victim of sexual assault, after obtaining the consent of the victim, to do all of the following: (a) provide to the victim medically and factually accurate and unbiased written and oral information about emergency contraception; (b) orally inform the victim of her option to receive emergency contraception at the hospital; and (c) provide emergency contraception immediately at the hospital to the victim if she requests it. Require a hospital that provides emergency care to ensure that each hospital employee who provides care to an alleged victim of sexual assault has available medically and factually accurate and unbiased information about emergency contraception. Specify that whoever violates these requirements may be required to forfeit not less that $2,500 nor more than $5,000 for each violation. In addition, specify that if a hospital fails twice to do (a) through (c) above, DHFS may, after providing notice to the hospital, suspend or revoke the hospital's certificate of approval and may deny application for a new certificate of approval.

Define "sexual assault" as either first, second or third degree sexual assault. Define "emergency contraception" as a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal Food and Drug Administration that prevents a pregnancy after sexual intercourse. Specify that "emergency contraception" does not include a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a woman who is known by the prescribing licensed health care provider to be pregnant.

Require DHFS to respond to any complaint that it receives concerning a hospital's noncompliance with these provisions and to periodically review hospital procedures to determine if a hospital complies with these requirements.

Conference Committee/Legislature: Delete provision.

Children, Families and Supportive Living

1. FOSTER CARE AND ADOPTION ASSISTANCE REESTIMATE

GPR	$4,366,100
FED	101,100
Total	$4,467,200

Governor/Legislature: Provide $1,530,700 ($1,866,100 GPR and -$335,400 FED) in 2001-02 and $2,936,500 ($2,500,000 GPR and $436,500 FED) in 2002-03 to reflect reestimates of the amount of funding required to support foster care and adoption assistance payments for special needs children under guardianship of the state. This item includes a reduction in the estimated amount of federal Title IV-E funds the state will receive to support these costs. The state pays the costs of out-of-home placements for these children while they await adoption and makes adoption assistance payments to families who adopt special needs children.

[Act 109 Section: 9223(6)]

2. MILWAUKEE COUNTY'S CONTRIBUTION FOR CHILD WELFARE SERVICES [LFB Paper 1236]

Governor: Reduce the annual amount of funding Milwaukee County is required to contribute to support child welfare services in Milwaukee County, from $58,893,500 to $38,792,200, beginning July 1, 2004. In addition, delete references to shared revenue as a funding source for Milwaukee County's contribution for child welfare services, effective July 1, 2004. This item is part of the Governor's proposal to repeal the state's shared revenue program, beginning in calendar year 2004.

Currently, Milwaukee County is required to make its $58,893,500 annual contribution as follows: (a) through a reduction of $37,209,200 from the amount DHFS distributes as the basic county allocation under community aids; (b) through a reduction of $1,583,000 from the federal substance abuse prevention and treatment (SAPT) block grant that DHFS distributes as a categorical allocation under community aids; and (c) through a deduction of $20,101,300 from shared revenue payments.

Joint Finance/Legislature: Delete provision.

3. COMMUNITY AIDS

Governor/Legislature: Make the following funding adjustments for DHFS and DWD to correctly reflect the amount of TANF funds that can be transferred to DHFS for purposes

eligible under the federal social services block grant in the 2001-03 biennium: (a) transfer $133,200 FED in 2001-02 and $37,600 FED in 2002-03 from the DHFS community aids appropriation to the DWD federal block grant aids appropriation; (b) reduce funding in DWD for Wisconsin Works benefits and administration by $133,200 GPR in 2001-02 and $37,600 GPR in 2002-03; and (c) increase funding in DHFS for community aids by $133,200 GPR in 2001-02 and $37,600 GPR in 2002-03. These transfers would have no net impact on either department.

[Act 109 Sections: 41, 9223(16)&(17) and 9258(10)&(11)]

4. OUT-OF-HOME PLACEMENTS

Assembly: Incorporate the provisions of Assembly Bill 809, as concurred in by the Senate.

Assembly Bill 809 would make numerous changes to conform state statutes to the requirements of the federal Adoption and Safe Families Act of 1997 (P.L. 105-89). In addition, AB 809 would modify the requirements for permanency plans and require permanency plans for children placed in the home of a relative under court-ordered kinship care.

Unless otherwise noted, these provisions would apply to proceedings for children and unborn children in need of protection or services (CHIPS) under Chapter 48 of the statutes and for juvenile delinquency or juveniles in need of protection or services (JIPS) under Chapter 938 of the statutes. [This summary is based on an analysis of the bill that was prepared by the staff of the Legislative Council.]

Court Findings for Children Placed Outside the Home

Dispositional Orders

Current Law. Under current law, if a child is placed outside the home, the child's dispositional order must contain a finding that continued placement of the child in his or her home would be contrary to the health, safety and welfare of the child. The dispositional order must include a description of any efforts that were made to permit the child to remain safely at home and the services that are needed to ensure the child's well-being, to enable the child to return safely to his or her home, and to involve the parents in planning for the child. Under the Juvenile Justice Code, a dispositional order for a juvenile who is placed outside of his or her home in a delinquency proceeding must include a finding that the juvenile's current residence will not safeguard the welfare of the juvenile or the community due to the serious nature of the act for which the juvenile was adjudicated delinquent.

The dispositional order must also contain a finding as to whether the county department of social or human services, the Department of Health and Family Services (for Milwaukee

County), or the child welfare agency primarily responsible for providing services under the court order has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns, or, if applicable, a finding as to whether the agency primarily responsible for providing services has made reasonable efforts to make it possible for the child to return safely to his or her home.

The second finding is not required under any of the following circumstances:

- The parent has subjected the child to aggravated circumstances. Under current law, "aggravated circumstances" include abandonment, torture, chronic abuse and sexual abuse.

- The parent has committed, has aided or abetted the commission of, or has solicited, conspired or attempted to commit first- or second-degree intentional homicide, first-degree reckless homicide, or felony murder and that the victim of the homicide or attempted homicide was a child of the parent;

- The parent has committed substantial battery, first- or second-degree sexual assault, first- or second-degree sexual assault of a child, engaging in repeated acts of sexual assault of the same child, or intentionally or recklessly causing great bodily harm to a child if the violation resulted in great or substantial bodily harm to the child or another child of the parent;

- The parental rights of the parent to another child have been involuntarily terminated; or

- The parent has been found to have relinquished custody of the child when the child was 72 hours old or younger.

If the juvenile court (the court authorized to exercise jurisdiction under Chapters 48 and 938 of the statutes) makes one of the findings described above, the court must hold a hearing within 30 days after the date of that finding to determine the permanency plan for the child. If a hearing is held, the agency responsible for preparing the permanency plan must file the plan with the court not less than five days before the date of the hearing.

Bill. Delete the requirement that a dispositional order include a description of any efforts that were made to permit the child to remain safely at home and the services that are needed to ensure the child's well-being, to enable the child to return safely to his or her home, and to involve the parents in planning for the child. Instead, require the dispositional order to include a finding: (a) that continued placement of the child in his or her home would be contrary to the welfare of the child; and (b) that the county department, the Department of Health and Family Services (DHFS), or the child welfare agency has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns, and to make it possible for the child to return safely home.

Require that, if for good cause shown, sufficient information is not available to the court to make these findings, the disposition include an order for the agency that is responsible for providing services under the custody order to file with the court sufficient information for the judge or juvenile court commissioner to make a finding as to whether reasonable efforts were made to prevent the removal of the child from the home by no later than five days after the date of the order.

Specify that these requirements would not apply if the court finds that any of the circumstances under which there is no requirement to make reasonable efforts to return the child to his or her home apply. If the court determines that the circumstances apply to a parent, require the dispositional order to include a determination that the agency is not required to make those reasonable efforts with respect to the parent. Require evidence with respect to the court's required findings to be presented by a county department, DHFS or a licensed child welfare agency that is recommending placement of the child in a foster home, treatment foster home, group homes, or child caring institution or in the home of a relative.

Specify that a finding that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile is required for all other dispositional orders under the Juvenile Justice Code that place a juvenile outside his or her home.

Require the court to make its findings regarding the child's welfare and whether reasonable efforts have been made on a case-by-case basis, based on circumstances specific to the child and to document or reference the specific information on which those findings are based in the court order. Provide that a court order that merely references this statutory requirement or incorporates the court report or any other document without documenting that specific information in the court order, or an amended court order that retroactively corrects an earlier court order that does not comply with this provision, is not sufficient to meet the requirements for documentation. Provide that this documentation requirement also applies to the court's finding that a circumstance under which reasonable efforts are not required exists.

Specify that if the court finds that any of the circumstances under which there is no requirement to make reasonable efforts to return the child to his or her home applies with respect to a parent, the judge or juvenile court commissioner must hold a hearing within 30 days after the date of that finding to determine the permanency plan for the child. Provide that if such a hearing is held, the agency responsible for preparing the permanency plan must file the plan with the court not less than five days before the date of the hearing. Require the court to notify the child, any parent, guardian and legal custodian of the child, and any foster parent, treatment foster parent or other physical custodian of the child of the time, place and purpose of the hearing at least 10 days before the hearing. Specify that a foster parent, treatment foster parent, or other physical custodian who receives a hearing notice and an opportunity to be heard does not necessarily become a party to the proceeding.

Other Orders

Temporary Physical Custody Orders

Current Law. Under current law, a child may be taken into temporary physical custody, generally for safety reasons, before a CHIPS petition is filed. If a child is taken into custody, a hearing must be held within 48 hours, excluding weekends and holidays. At that hearing, the court must determine whether to order the child to be held in temporary physical custody.

A parent, guardian, or legal custodian may waive his or her right to a temporary physical custody hearing. After any waiver, however, a hearing must be granted at the request of any interested party.

Bill. Require the court to include in an order for temporary physical custody the findings that placement in the home would be contrary to the welfare of the child and that reasonable efforts, if required, have been made by the person who took the child into custody and the intake worker to return the child to his or her home. Specify that, if, for good cause shown, sufficient information is not available for the judge or the juvenile court commissioner to make the finding that placement of the child in his or her home is contrary to the child's welfare at the temporary custody hearing, the judge or juvenile court commissioner must order the county department, DHFS, or the child welfare agency primarily responsible for providing services to the child to file with the court sufficient information to make those findings no later than five days after the date of the temporary physical custody order.

Consent Decrees

Current Law. Under current law, at any time after a CHIPS petition is filed, but before the entry of a final judgment, the judge or juvenile court commissioner may suspend the proceedings and place the child under supervision in the home or the present placement of the child. This is called a "consent decree" and must be agreed upon by all of the parties.

Bill. Specify that if the child is placed outside the home at the time the parties enter into the consent decree and if the consent decree maintains that placement, the consent decree must include the finding that placement of the child in his or her home would be contrary to the welfare of the child. Provide that the consent decree must also include a finding that reasonable efforts to return the child to his or her home have been made, unless such a finding is not required. Specify that the additional provisions identified under dispositional orders regarding reasonable efforts on a case-by-case basis, hearings, and circumstances under which there is no requirement to make reasonable efforts also apply to consent decrees.

Change in Placement

Current Law. Under current law, the person or agency primarily responsible for implementing the dispositional order, the district attorney (DA), or the corporation counsel may request a change in the placement of the child, whether or not the change requested is authorized in the dispositional order. The child, parent, guardian or legal custodian of the child or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, may also request a change in placement. Finally, the court may propose a change in placement on its own motion.

If a hearing is held on a change in placement request that would place the child outside the home in a placement recommended by the person or agency primarily responsible for implementing the dispositional order, the change in placement order must include a statement that the court approves the placement recommended or, if the child is placed outside the home in a placement other than a placement recommended by that person or agency, a statement that the court has given bona fide consideration to the recommendations made by that person or agency and all parties relating to the child's placement.

Bill. Specify that if a proposed change in placement would change the placement of a child placed in the home to a placement outside the home, the person or agency primarily responsible for implementing the dispositional order, the DA, or the corporation counsel must submit the request to the court. Require such a request to contain: (a) the name and address of the new placement; (b) the reasons for the change in placement; (c) a statement describing why the new placement is preferable to the present placement; and (d) a statement of how the new placement satisfies the objectives of the treatment plan ordered by the court. Require that the request contain specific information showing that continued placement of the child in his or her home would be contrary to the welfare of the child. Require the request to also contain specific information showing that the agency primarily responsible for implementing the dispositional order has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns, unless reasonable efforts are not required.

Require the court to hold a hearing for a request to change placement of a child placed in the home to a placement outside the home. Require the court to provide notice of the hearing for a change in placement not less than three days before the hearing, together with a copy of the request for the change in placement, to the child, the parent, guardian, and legal custodian of the child, the child's court-appointed special advocate, and all parties that are bound by the dispositional order. Specify that if all parties consent, the court may proceed immediately with the hearing.

Provide that if the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order must contain the finding that continued placement of the child in his or her home would be contrary to the

welfare of the child and a finding that reasonable efforts to prevent the removal of the child from the home have been made, unless not required.

Specify that the additional provisions identified under dispositional orders regarding reasonable efforts on a case-by-case basis, hearings, and circumstances under which there is no requirement to make reasonable efforts also apply to a change in placement.

Extension of Dispositional Orders

Current Law. Under current law, the parent, child, guardian, legal custodian, any person or agency bound by the dispositional order, the DA or corporation counsel of the county in which the dispositional order was entered, or the court by its own motion, may request an extension of a dispositional order. A hearing must be held before the court may order an extension. At the hearing, any party may present evidence relevant to the issue of extension. The judge must make findings of fact and conclusions of law based on the evidence. The findings of fact must include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the child to make it possible for the child to return to his or her home, unless any circumstances that exempt the case from reasonable efforts requirement exists.

Bill. Require that the court's findings of fact include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the child to achieve the goal of the child's permanency plan, unless returning the child to the home is the goal and the judge finds that a circumstance under which reasonable efforts to return the child to his or her home are not required exists.

Specify that the additional provisions identified under dispositional orders regarding reasonable efforts on a case-by-case basis, hearings, and circumstances under which there is no requirement to make reasonable efforts also apply to extension of dispositional orders.

CHIPS Petition

Current Law. Under current law, a CHIPS petition must set forth with specificity, among other information, reliable and credible information that forms the basis of the allegations necessary to invoke the jurisdiction of the court and to provide reasonable notice of the conduct or circumstances to be considered by the court together with a statement that the child is in need of supervision, services, care, or rehabilitation.

Bill. Specify that if the child is being held in custody outside of his or her home at the time the petition is filed, the petition must set forth reliable and credible information showing that continued placement of the child in his or her home would be contrary to the welfare of the child. In addition, specify that unless any of the circumstances under which reasonable efforts to return a child to his or her home are not required exist, the petition must provide reliable and

credible information showing that the person who took the child into custody and the intake worker have made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns, and to make it possible for the child to return home.

Specify that the additional provisions identified under dispositional orders regarding reasonable efforts on a case-by-case basis, hearings, and circumstances under which there is no requirement to make reasonable efforts also apply to CHIPS petitions.

Delays, Continuances and Extensions

Current Law. Under current law, specified time periods are excluded in computing time requirements for proceedings under the Children's Code or the Juvenile Justice Code. In addition, the court may grant a continuance upon a showing of good cause.

Bill. Specify that no continuance of a specified time limit in either the Children's Code or the Juvenile Justice Code may be granted and no period of delay may be excluded in computing a time limit if, as a result of the continuance, extension or exclusion, the time limits for the court to make a finding that reasonable efforts have been made to prevent the removal of the child from the home, an initial finding that those efforts are not required, or an initial finding that the agency primarily responsible for providing services to the child has made reasonable efforts to achieve the goals of the permanency plan would be exceeded.

Specify that failure to comply with either of the above time limits does not deprive the court of jurisdiction or of competency to exercise that jurisdiction. However, specify that if a party does not comply with one of the above time limits, the court may dismiss the proceeding with or without prejudice, release the child from custody, or grant any other relief that the court considers appropriate. Specify that if the court grants a remedy for an exceeded time limit, it must do so while assuring the safety of the child.

Permanency Plans

Current Law. Under current law, for each child living outside his or her home in a licensed facility, the agency that placed the child or arranged the placement or the agency assigned primary responsibility for providing services to the child must prepare a written permanency plan if one of the following conditions exists:

- The child is being held in temporary physical custody;
- The child is in the legal custody of the agency;
- The child is under the supervision of an agency under a court order;

- The child is in the out-of-home placement under a voluntary agreement between the agency and the child's parent;

- The child is under the guardianship of the agency; or

- The child meets the requirements for aid under the former aid to families with dependent children (AFDC) program.

The agency must file the permanency plan with the court within 60 days after the date on which the child was first held in physical custody or placed outside of his or her home under a court order. The permanency plan must include a description of all of the following:

1. The services offered and any service provided in an effort to prevent holding or placing the child outside of his or her home, while assuring that the health and safety of the child are the paramount concerns, and to make it possible for the child to return safely home. The permanency plan need not include a description of those services offered or provided with respect to a parent of the child if there are circumstances under which reasonable efforts to return a child to his or her home are not required.

2. The basis for the decision to hold the child in custody or to place the child outside of his or her home.

3. The availability of a safe and appropriate placement with a relative of the child and, if a decision is made not to place the child with an available relative, why placement with the relative is not safe or appropriate.

4. The location and type of facility in which the child is currently held or placed, and the location and type of facility in which the child will be placed.

5. If the child is living more than 60 miles from his or her home, documentation that placement within 60 miles of the child's home is either unavailable or inappropriate or that the placement is in the child's best interests.

6. The safety and appropriateness of the placement and of the services provided to meet the needs of the child and family.

7. The services that will be provided to the child, the child's family and the child's foster parent, treatment foster parent or the operator of the facility where the child is living to carry out the dispositional order.

8. If the permanency plan calls for placing the child for adoption, with a guardian or in some other alternative permanent placement, the efforts made to do so.

9. The conditions, if any, upon which the child will be returned safely to his or her home, including any changes in the parents' conduct or the nature of the home.

Bill. Require permanency plans to also be prepared for a child who is placed in the home of a relative under a court order. Require the agencies assigned primary responsibility for children or juveniles who are living in the home of a relative under a court order to file permanency plans with the court for not less than 33% of those children or juveniles by July 1, 2002, at least 67% of those children or juveniles by September 1, 2002, and 100% of those children and juveniles by November 1, 2002, giving priority to those children or juveniles who have been living in the home of a relative for the longest period of time. In addition, require agencies to prepare permanency plans for any child who is in an out-of-home placement under a consent decree. Require the agency to file the permanency plan with the court within 60 days after the date on which the child was first removed from his or her home.

In addition to the provisions required under current law, require each permanency plan to include the following.

1. A description of the services offered and any services provided to achieve the goal of the permanency plan, which may or may not be returning the child to his or her home.

2. The name, address and telephone number of the child's parent, guardian and legal custodian.

3. The date on which the child was removed from his or her home and the date on which the child was placed in out-of-home care.

4. A statement as to the availability of a safe and appropriate placement with a fit and willing relative.

5. Information about the child's education, including: (a) the name and address of the school in which the child is or was most recently enrolled; (b) any special education programs in which the child is or was previously enrolled; (c) the grade level in which the child is or was most recently enrolled and all information that is available concerning the child's grade level performance; and (d) a summary of all available education records relating to the child that are relevant to any education goals included in the education services plan prepared for the report to the court prior to disposition.

6. If, as a result of the placement, the child has been or will be transferred from the school in which the child is or most recently was enrolled, documentation that a placement that would maintain the child in that school is either unavailable or inappropriate or that a placement that would result in the child's transfer to another school would be in the child's best interests.

7. Medical information relating to the child, including all of the following: (a) the names and addresses of the child's physician, dentist, and any other health care provider; (b) the child's immunization record, including the name and date of each immunization administered to the child; (c) any known medical condition for which the child is receiving medical care or treatment and any known serious medical condition for which the child has previously received medical care or treatment; and (d) the name, purpose and dosage of any medication that is being administered to the child and the name of any medication that causes the child to suffer an allergic or other negative reaction.

8. A plan for ensuring the safety and appropriateness of the placement.

9. The goal of the permanency plan or, if the agency is making concurrent reasonable efforts to return the child to the home and to find a permanent placement for the child, the goals of the permanency plan. If a goal of the permanency plan is any goal other than returning the child to his or her home, require the permanency plan to include the rationale for deciding on that goal. If a goal of the permanency plan is an alternative placement, listed under "e" below, require the permanency plan to document a compelling reason why it would not be in the best interest of the child to pursue a goal listed in items "a" to "d", below. Require the agency to determine one or more of the following possible goals to be the goal or goals of the permanency plan: (a) return of the child to the child's home; (b) placement of the child for adoption; (c) placement of the child with a guardian; (d) permanent placement of the child with a fit and willing relative (other than adoption by or under the guardianship of a relative); or (e) some other alternative permanent placement, including sustaining care, independent living, or long-term foster care.

10. If the goal of the permanency plan is to place the child for adoption, with a guardian, with a fit and willing relative, or in some other alternative permanent placement, the efforts made to achieve that goal.

11. If the child is 15 years old or older, a description of programs and services that are, or will be provided to assist the child in preparing for the transition from out-of-home care to independent living. Require the description to include all of the following: (a) the anticipated age at which the child will be discharged from out-of-home care; (b) the anticipated amount of time available in which to prepare the child for the transition from out-of-home care to independent living; (c) the anticipated location and living situation of the child on discharge from out-of-home care; (d) a description of the assessment processes, tools, and methods that have been or will be used to determine the programs and services that are or will be provided to assist the child in preparing for the transition from out-of-home care to independent living; and (e) the rationale for each program or service that is or will be provided to assist the child in preparing for the transition from out-of-home care to independent living, the time frames for delivering those programs or services, and the intended outcome of those programs or services.

Permanency Plan Reviews

Current Law. Under current law, the court or a panel appointed by the court must review a permanency plan every six months from the date on which the child was first held in physical custody or placed outside of his or her home. If the court elects not to review the permanency plan, the court must appoint a panel to review the plan. The panel must consist of three persons who are either designated by an independent child welfare agency that has been approved by the chief judge of the judicial administrative district or designated by the child welfare agency that prepared the permanency plan.

The court or the panel must determine each of the following:

1. The continuing necessity for and the safety and appropriateness of the placement.

2. The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child and the child's guardian, if any.

3. The extent of any efforts to involve appropriate service providers in addition to the agency's staff in planning to meet the special needs of the child and the child's parents.

4. The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining permanent placement for the child.

5. The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement for the child.

6. If the child has been placed outside of his or her home for 15 of the most recent 22 months, the appropriateness of the permanency plan and the circumstances which prevent the child from any of the following: (a) being returned safely to his or her home; (b) being placed in the home of a relative of the child; (c) having a petition for the involuntary termination of parental rights (TPR) filed on behalf of the child; (d) being placed for adoption; or (e) being placed in sustaining care.

7. Whether reasonable efforts were made by the agency to make it possible for the child to return safely to his or her home, except that the court or panel need not determine whether those reasonable efforts were made with respect to a parent of the child if any of the circumstances that under which reasonable efforts to return the child to his or her home are not required applies to that parent.

Bill. Require the court or a panel appointed by the court to review the permanency plan not later than six months after the date on which the child was first removed from his or her

home and every six months after a previous review for as long as the child is placed outside the home. Require the court to hold a hearing on the second review of the permanency plan and on the reviews that are required to be conducted every 12 months after that review. Provide that this hearing may be held either in place of, or in addition to, a review.

Provide that, not less that 30 days before the date of the hearing, the court must notify the child, the child's parent, guardian, and legal custodian; the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; the child's counsel, the child's guardian ad litem, the child's special court-appointed special advocate; the agency that prepared the permanency plan; and the persons representing the interests of the public of the date, time, and place of the hearing.

Specify that any person who is provided notice of the hearing may have an opportunity to be heard at the hearing by submitting written comments relevant to the determinations of the court not less than 10 working days before the date of the hearing or by participating in the hearing. Specify that a foster parent, treatment foster parent, operator of a facility in which a child is living, or relative with whom a child is living who receives notice of the hearing and an opportunity to be heard at the hearing does not necessarily become party to the proceeding on which the hearing is held.

Specify that, at least five days before the date of the permanency plan hearing, the agency that prepared the plan must provide a copy of the permanency plan and any written comments submitted to the court, to the child's parent, guardian, and legal custodian, to the person representing the interests of the public, the child's counsel or guardian ad litem, and to the child's court-appointed special advocate. Specify that, notwithstanding the statutory requirements regarding record confidentiality, the person representing the interests of the public, the child's counsel or guardian ad litem, and the child's court-appointed apical advocate may have access to any other records concerning the child for the purpose of participating in the review. Prohibit a person permitted access to a child's records under this provision from disclosing any information from the records to any other person.

Require the court to hold a permanency plan hearing no later than 12 months after the date on which the child was first removed from his or her home and every 12 months thereafter for as long as the child is placed outside the home. Specify that at the permanency plan hearing, the court is required to make written findings of fact and conclusions of law relating to the determinations required under the permanency plan review. Require the court to provide a copy of the findings of fact and conclusions of law to the child; the child's parent, guardian, and legal custodian; the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; the child's court-appointed special advocate; the agency that prepared the permanency plan; and the persons representing the interests of the public. Require the court to make the findings on reasonable efforts on a case-by-case basis based on circumstances specific to the child and to document or reference the specific information on which those findings are based on the findings of fact and

conclusions of law. Provide that a court order that merely references this statutory requirement or incorporates the court report or any other document without documenting that specific information in the court order, or an amended court order that retroactively corrects an earlier court order that does not comply with this provision, is not sufficient to meet the requirements for documentation.

Provide that if these findings and conclusions conflict with the child's dispositional order or provide for any additional services not specified in the dispositional order, the court must revise the order or order a change in placement, as appropriate.

Provide that, when determining that a child has been placed outside of his or her home for 15 of the most recent 22 months, this time period does not include any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial visit. Require the court or panel to determine, for these children, the appropriateness of the permanency plan and the circumstances that prevent the child from any of the following: (a) being returned safely to his or her home; (b) being placed with a guardian; (c) being placed with a fit and willing relative; (d) having a TPR petition filed on behalf of the child; (e) being placed for adoption; and (f) being placed in some other alternative permanent placement, including sustaining care, independent living, or long-term foster care. In addition, require the court or panel to determine whether the agency has made reasonable efforts to achieve the goal of the permanency plan, as required.

Termination of Dispositional Orders

Current Law. Under current law, dispositional orders and extensions or revisions to a dispositional order terminate at the end of one year, unless the judge specifies a shorter period.

Bill. Specify that dispositional orders, and extensions or revisions to a dispositional order, made before the child reaches 18 years of age that place or continue the placement of a child in his or her home, terminate at the end of one year after entry of the order, unless the judge specifies a shorter period of time or terminates the order sooner. Provide that an order or an extension or revision of an order made before the child reaches 18 years of age that places or continues placement of the child in an out-of-home placement terminates when the child reaches 18 years of age, at the end of one year after entry of the order or, if the child is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching age 19, when the child reaches age 19, whichever is later, unless the judge specifies a shorter period of time or terminates the order sooner.

Petitions for Involuntary Termination of Parental Rights (TPR)

Current Law. Under current law, an agency, the DA or corporation counsel must file a TPR petition, or must join a TPR petition that has already been filed, if any of the following conditions exist: (a) the child has been placed outside of his or her home for 15 of the most

recent 22 months; (b) a court has found that the child was abandoned when he or she was under one year of age; (c) a court has found that the parent has committed, has aided or abetted the commission of, or has solicited, conspired, or attempted to commit first- or second-degree intentional homicide, first-degree reckless homicide or felony murder and that the victim of the homicide is a child of the parent; or (d) the parent has committed substantial battery, first- or second-degree sexual assault, first- or second-degree sexual assault of a child, engaging in repeated acts of sexual assault of the same child, or intentionally or recklessly causing great bodily harm to a child if the violation resulted in great or substantial bodily harm to the child or another child of the parent.

However, an agency, the DA or corporation counsel need not file or join a TPR petition if any of the following circumstances apply: (a) the child is being cared for by a relative; (b) the child's permanency plan indicates that TPR is not in the best interests of the child; or (c) the agency primarily responsible for providing services to the child and the family under a court order has not, if so required, provided the family of the child, consistent with the time period in the permanency plan, the services necessary for the safe return of the child to his or her home.

Bill. Specify that, in determining that a child has been placed outside of his or her home for 15 of the most recent 22 months, the time period does not include any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial visit. Provide that the period that the child has been placed outside of his or her home does not include the first six months of any trial visit, instead of any trial visit of six months or less, as stated in current law. In addition, specify that if a juvenile is placed in a secured placement under the Juvenile Justice Code for 60 days or more and then moved to a nonsecured out-of-home placement, the juvenile is considered to be placed outside of his or her home on the date he or she is moved to the nonsecured placement.

Require that, under circumstances in which an agency, DA or corporation counsel is required to file or join in a TPR petition because the child has been placed outside the home for 15 of the most recent 22 months, the petition be filed or joined in by the last day of the 15th month for which the child was placed outside the home. Require that, for the provision relating to child abandonment, the petition be filed or joined in within 60 days after the date on which a court of competent jurisdiction finds that the child was abandoned. Require that, for the crimes committed against a child of the parent, the petition be filed or joined within 60 days after the date on which the juvenile court determines that reasonable efforts to make it possible for the child to return safely to his or her home are not required.

Specify that an agency, the DA or corporation counsel need not file or join a TPR petition if any of the following circumstances apply: (a) the child is being cared for by a fit and willing relative; (b) the child's permanency plan indicates and provides documentation that TPR is not in the best interests of the child; (c) the agency primarily responsible for providing services to the child and the family under a court order has not, if so required, provided the family of the

child, consistent with the time period in the permanency plan, the services necessary for the safe return of the child to his or her home; or (d) grounds for involuntary TPR do not exist.

Foster Home Licenses

Current Law. Under current law, persons applying for licenses to be caregivers are generally required to submit to a criminal background check. Generally, a person may not be granted a foster home license if he or she has been convicted of a serious crime unless the person can demonstrate that he or she has been rehabilitated. However, for purposes of licensing a foster home or treatment foster home, there are specified offenses for which a person is not permitted to demonstrate rehabilitation. These offenses include any drug offense under Chapter 961 of the statutes that is a felony, if committed not more than five years before the date of the background check.

Bill. Specify that a person is not permitted to demonstrate rehabilitation for purposes of receiving a foster home or treatment foster home license if he or she has been convicted of any of the following alcohol-related felony offenses not more than five years before the date of the background check:

1. Procuring alcohol beverages for or selling, dispensing, or giving away alcohol beverages to a minor if the person knew or should have known that the person was under the legal drinking age and the underage person dies or suffers great bodily harm as a result of consuming the alcohol beverages provided.

2. Making, altering, or duplicating an official identification card; providing an official identification card to an underage person; or knowingly providing other documentation to an underage person purporting to show that the underage person has attained the legal drinking age for money or other consideration.

3. Impersonating an inspector, agent, or other employee of the Department of Revenue or the Department of Justice to commit, or abet the commission of, a crime.

4. Manufacturing or rectifying intoxicating liquor without holding appropriate permits, or selling such liquor.

5. Recovering any alcohol or alcoholic liquid from denatured alcohol by any process or using, selling, concealing, or disposing of any alcohol or alcoholic liquid derived from denatured alcohol.

6. Homicide by intoxicated use of a vehicle or firearm.

7. Injury by intoxicated use of a vehicle.

8. Any felony offense relating to operating a vehicle under the influence of an intoxicant or other drug.

Oath or Affirmation

Current Law. Under current law, foster parents, treatment foster parents, and other physical custodians are given notice of and the opportunity to submit a written or oral statement to the court for various hearings under the Children's Code and the Juvenile Justice Code. Some of the provisions permitting the submission of a written or oral statement require that the statement be made under oath or affirmation.

Bill. Delete the requirement that such statements be made under oath or affirmation.

Juvenile Code Changes

The provisions that apply to the Children's Code, described above, would also apply to the Juvenile Justice Code. Elements of the Juvenile Justice Code affected by these changes would include the following: (a) hearings for juveniles who are taken into to custody, including juveniles alleged to be in need of protection or services; (b) written orders concerning juveniles who are taken into custody, including juveniles alleged to be in need of protection or services; (c) the form and content of petitions to initiate proceedings under the Juvenile Justice Code; (d) delays, continuances and extensions relating to the time requirements under the Juvenile Justice Code; (e) consent decrees; (f) court reports relating to out-of-home placements; (g) dispositional hearings under the Juvenile Justice Code; (h) dispositional orders, including revisions to and extensions of dispositional orders relating to out-of-home placements; (i) change in placement proceedings relating to out-of-home placements; and (j) permanency planning.

There are some differences in the bill with the respective treatment of the Children's Code and the Juvenile Justice Code due to the delinquent status of adjudicated juveniles and the sanctions associated with this status. These include the following:

1. *Findings Related to Out-of-Home Placements.* Under current law, if a disposition places a juvenile who has been adjudicated delinquent outside the home in a foster home, a treatment foster home or a child caring institution, the dispositional order must include a finding that the juvenile's current residence will not safeguard the welfare of the juvenile or the community due to the serious nature of the act for which the juvenile was adjudicated delinquent.

Under the bill, if the juvenile is adjudicated delinquent and the placement is outside the home in the home of a parent or relative, a foster home, a treatment foster home, or a child caring institution, the court order must include a finding that the juvenile's current residence will not safeguard the welfare of the juvenile or the community due to the serious nature of the act for which the juvenile was adjudicated delinquent. Any other disposition that includes an

out-of-home of a juvenile under the Juvenile Justice Code would require a finding that continued placement of the juvenile in his or her home would be contrary to the health, safety and welfare of the juvenile.

2. *Out-of-Home Placement Date.* Under current law, a juvenile is considered to have been placed outside of his or her home on the date on which the juvenile was first placed outside of his or her home pursuant to a court order or on the date that is 60 days after the date on which the juvenile was removed from his or her home, whichever is earlier.

Under the bill, a juvenile is considered to have been placed outside of his or her home on the date on which the juvenile was first removed from his or her home, except that in the case of a juvenile who on removal from his or her home was first placed in a secure detention facility, a secured correctional facility, a secured child caring institution, or a secured group home for 60 days or more and then moved to a nonsecured out-of-home placement, the juvenile is considered to have been placed outside of his or her home on the date on which the juvenile was moved to the nonsecured out-of-home placement.

3. *Sanctions for Violation of an Order.* Under current law, if a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance, other than an ordinances relating to truancy or habitual truancy, knowingly violates a condition specified in his or her court order, the court may impose certain sanctions, including placement of the juvenile in a secure detention facility or juvenile portion of a county jail, or in nonsecure custody, for not more than 10 days. This provision also applies to a juvenile who has been found to be in need of protection or services and who violates a condition of his or her court order, except that the court may not impose a sanction of placement in a secure detention facility or juvenile portion of a county jail for such juveniles. The court may not order the sanction of placement in a place of nonsecure custody unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home is contrary to the welfare of the juvenile.

Under the bill, the court would be required to: (a) make its findings on a case-by-case basis based on circumstances specific to the juvenile; and (b) document or reference the specific information on which that finding is based in the sanction order. Further, the bill specifies that a sanction order that merely references this provision without documenting or referencing that specific information in the sanction order, or an amended sanction order, would not be sufficient to comply with this provision.

4. *Sanctions for Violation of an Order Relating to Truancy.* Under current law, if a juvenile who has been found to have violated ordinances relating to truancy or habitual truancy knowingly violates a condition specified in his or her court order, the court may impose certain sanctions. One permissible sanction is the placement of the juvenile in a secure detention facility or juvenile portion of a county jail, or in nonsecure custody, for not more than 10 days.

Under the bill, the court may not order a sanction of nonsecure custody unless the court finds that the agency primarily responsible for providing services for the juvenile has made reasonable efforts to prevent the removal of the juvenile from his or her home and that continued placement of the juvenile in his or her home is contrary to the welfare of the juvenile. Under the bill, the court would also be required to: (a) make its findings on a case-by-case basis based on circumstances specific to the juvenile; and (b) document or reference the specific information on which that finding is based in the sanction order. Further, the bill would specify that a sanction order that merely references this provision without documenting or referencing that specific information in the sanction order, or an amended sanction order, would not be sufficient to comply with this provision.

Senate: Delete provision.

Conference Committee/Legislature: Include the Assembly provision with the following modifications: (a) delete references to "juvenile court commissioner" and instead reference "circuit court commissioner"; (b) delete references to "child caring institution" and instead reference "residential care center for children and youth"; and (c) modify the language to reflect the enactment of 2001 Wisconsin Act 69, related to second chance homes, and 2001 Wisconsin Act 103, a revisor's revision bill, and to reflect the provisions related to truth-in-sentencing.

In addition, specify that the agencies assigned primary responsibility for children or juveniles who are living in the home of a relative under a court order to file permanency plans with the court for not less than 33% of those children or juveniles by September 1, 2002, at least 67% of those children or juveniles by November 1, 2002, and 100% of those children and juveniles by January 1, 2003. The Assembly provision specifies July 1, 2002, September 1, 2002, and November 1, 2002, respectively.

[Act 109 Sections: 101b thru 102rm, 103m thru 104f, 110m thru 110s, 113x thru 114m, 529b thru 529k, 529m thru 529v, 531d thru 533fd, 9109(1z), 9309(1vv) thru (1wx), 9359(3) and 9459(1)]

5. UNDERAGE TOBACCO ENFORCEMENT [LFB Paper 1171]

Assembly: Direct DHFS to identify $3,011,300 available in DHFS appropriations, other than sum sufficient appropriations, to fund underage tobacco enforcement activities to meet the compliance requirements under the federal Synar Amendment and authorize DHFS to expend these funds in accordance with a negotiated agreement with the U.S. Department of Health and Human Services (DHHS), such that legislative intent will not be changed as a result of such an action. Require DHFS to transfer these dollars to a local assistance appropriation in the Division of Supportive Living. Require DHFS to report to the Joint Committee on Finance by June 30, 2002, on the funding plan and the status of the discussions with DHHS regarding the resolution of the Synar penalty.

The Synar Amendment requires states to reduce the level of sales of tobacco to minors by demonstrating that minors are able to purchase tobacco products 20% or less of the time such attempts are made, beginning in federal fiscal year (FFY) 2002-03. States are required to meet negotiated rates of compliance in the years before FFY 2002-03. If a state is found not to be in compliance with the Synar regulations, the state may lose up to 40% of the its federal Substance Abuse Prevention and Treatment (SAPT) block grant allocation. In 2001, Wisconsin had an inspection failure rate (IFR) of 33.7%, which was 11.7 percentage points above the target IFR of 22%. Thus, Wisconsin is out of compliance with the regulations under the Synar Amendment and the state will be assessed a penalty equal to 40% of the state's FFY 2001-02 SAPT block grant allocation ($25,737,900), which is $10,295,200.

The DHHS federal appropriations bill for FFY 2001-02 includes a provision that allows a state that is out of compliance with the Synar Amendment requirements to commit additional state funds to underage tobacco enforcement activities to avoid the 40% penalty on the state's SAPT allocation. The amount of additional state funding must equal 1% of the state's SAPT allocation for each percentage point by which the state misses the retailer compliance rate goal. This equals $3,011,300 for Wisconsin. In addition, the state is required to maintain its expenditures in the current fiscal year for tobacco prevention programs and for compliance activities at least at the previous year's level. The additional funds the state commits are considered one-time funds that will not be incorporated into the future calculation of state expenditures on tobacco prevention programs and compliance activities.

Senate: Delete provision.

Conference Committee/Legislature: Include the Assembly provision with the following modifications: (a) direct DHFS to identify $3,012,200, instead of $3,011,300, in appropriated monies to reflect the actual SAPT block grant award level; (b) delete the requirement that DHFS transfer these dollars to a local assistance appropriation for the Division of Supportive Living; and (c) require DHFS to report to the Joint Committee on Finance by September 30, 2002, instead of June 30, 2002, on the Synar funding plan.

[Act 109 Section: 9123(1x)]

6. PLAN FOR STATE CENTERS AND OTHER RECOMMENDATIONS OF THE JOINT LEGISLATIVE COUNCIL'S SPECIAL COMMITTEE ON DEVELOPMENTAL DISABILITIES

Assembly: Incorporate the provisions of Engrossed Senate Bill 231 and Assembly Bill 590, as amended by Assembly Amendments 1 and 2, into the bill.

Engrossed Senate Bill 231

Task Force for the State Centers for the Developmentally Disabled. Require DHFS to create a task force to develop a plan, by September 1, 2002, for the state centers for the developmentally disabled and to include any recommended statutory language to DOA as part of its 2003-05 biennial budget request and to the Legislature. Require the plan to do the following:

- Specify the future role of the state and the state centers in providing services for persons with developmental disabilities;

- Attempt to maximize the potential for independent living in the most appropriate setting and ensure quality care and services for each person residing in the state centers, according to the person's wishes;

- If the task force recommends closing a state center, define and recommend changes in the role of one or more of the state centers, including functioning other than as a state center;

- Ensure the provision of quality community-based services for persons who are able to be relocated from the state centers; and

- Provide for transitional employment opportunities and services for existing staff of the state centers, in the event that one or more of the state centers close or are assigned new functions.

Require DHFS to appoint the membership of the task force described above, which would include representatives of the following: (a) DHFS; (b) the Department of Veterans Affairs; (c) the Department of Corrections; (d) the Governor's Office; (e) the American Federation of State, County and Municipal Employees Union, the Service Employees International Union, District 1199, and other labor unions; (f) parents and current residents of the state centers; (g) former and current residents of the state centers; (h) advocates for persons with developmental disabilities; (i) a member of the board of an intermediate care facility for the mentally retarded; (j) organizations that provide services to persons with developmental disabilities in the community; and (k) county departments that provide services to persons with developmental disabilities.

Assembly Bill 590, as amended by Assembly Amendments 1 and 2

Council on Developmental Disabilities. Require that the Council on Developmental Disabilities include four legislative members, one from each caucus, designated by the Speaker of the Assembly, the Senate majority leader, and the minority leaders in both houses and appointed by the Governor. Currently, the Council consists of representatives from: (a) DWD, DHFS, DPI and UW; (b) public and private nonprofit agencies of the state's political subdivisions providing direct services to individuals with developmental disabilities; (c)

nongovernmental agencies and groups concerned with services to persons with developmental disabilities; and (d) persons with developmental disabilities or their parents or guardians.

Require the Council to prepare, by January 31 of each year, a report evaluating the waiting lists compiled by DHFS for services for persons with developmental disabilities for the preceding calendar year and submit the report to the Legislature.

Pilot Program for Long-Term Care of Children with Disabilities. Require DHFS, as soon as possible before July 1, 2002, to seek a waiver of federal MA statutes and regulations that are necessary to implement the program. If a waiver is received, require DHFS to: (a) report this fact to relevant standing legislative committees within 30 days after the granting of the waivers; and (b) seek enactment of statutory language to implement the waiver as soon as possible before July 1, 2002. Otherwise, DHFS must report on the status of the waiver request to the relevant legislative committees within 12 months of submitting the waiver request. Currently, DHFS is required to seek a waiver and enactment of statutory language, but is not required to do so by a specific date.

Consolidation of Services for Persons with Developmental Disabilities. Require DHFS to develop a plan to administer and fund services for persons with developmental disabilities that would be included in its 2003-05 biennial budget request. Require the plan to include: (a) the consolidation of institutional and community-based services for persons with developmental disabilities within the administrative subunit that is administering community-based services; and (b) the consolidation of funding under the MA program for institutional and home and community-based waiver services for persons with developmental disabilities under a single appropriation, to the extent possible under federal law. Specify that funding for services to persons with developmental disabilities must not be tied to any specific program or service setting, but must be individually tailored to enable the person to live in the least restrictive setting that is appropriate to the person's needs and preferences. Direct DHFS to seek any new waivers under the MA program that would be necessary to implement these changes.

Senate: Delete provision.

Conference Committee/Legislature: Modify the Assembly provision by: (a) requiring the plan for the state centers for the developmentally disabled to be developed by the first day of the seventh month beginning after the bill's general effective date; and (b) deleting all provisions that are identical to the provisions of Assembly Bill 590, as amended by Assembly Amendments 1 and 2.

Veto by Governor [C-1]: Delete provision.

[Act 109 Vetoed Section: 9123(3xz)]

7. INTOXICATED DRIVER PROGRAM

Assembly: Require DHFS to distribute funding budgeted for the intoxicated driver program (IDP) for 2001-02 within two weeks of the bill's effective date.

DHFS notified counties in December, 2001, that the supplemental funding budgeted in 2001-02 for IDP to fund calendar year 2001 costs would not be distributed at that time so that the funds would be available if the Legislature wished to reallocate the funds to increase support for underage tobacco enforcement activities.

Senate/Legislature: Delete provision.

8. DOMESTIC ABUSE INJUNCTIONS, SEXUAL ASSAULT VICTIM PRIVILEGE AND CRIMINAL STALKING MODIFICATIONS

Senate/Legislature: Include the following provisions related to: (a) domestic abuse injunctions and court orders; (b) privileged communications involving victims of sexual assault or domestic abuse; and (c) stalking offenses.

a. Domestic Abuse Injunctions. Expand the definition of domestic abuse for purposes of obtaining an injunction or temporary restraining order to include actions by an adult against an adult with whom the individual has or had a dating relationship or by an adult caregiver against an adult who is under the caregiver's care. Under current law, domestic abuse, for purposes of obtaining an injunction, is defined as certain types of behavior engaged in by an adult against another adult if the two adults are involved in the following relationships: (a) are family members; (b) are members of the same household; (c) are former spouses; or (d) have a child in common.

Expand the types of behavior that are considered domestic abuse to include damage to the property that belongs to the other adult in the relationships specified above. Under current law, sexual assault, intentional infliction of pain or injury, intentional impairment of physical condition, and the threat to commit one of these acts are behaviors that are considered domestic abuse.

Define "caregiver" as an individual who is a provider of in-home or community care to an individual through regular and direct contact. Define "reasonable grounds" as more likely than not that a specific event has occurred or will occur. Define "regular and direct contact" as face-to-face physical proximity to an individual that is planned, scheduled, expected or periodic.

Specify that "dating relationship" means a romantic or intimate social relationship between two adults but does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context. Specify that a court must determine if a

dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship.

Provide that, under the petition to the court for a domestic abuse order, a judge or family court commissioner must inform the petitioner that the he or she may serve the other party (the respondent) by either mailing, as allowed under current law, or faxing a summary of the petition, instead of the entire petition as required under current law, to the respondent if the petitioner is unable to personally serve the other party. Require the petition summary to include the name of the respondent and of the petitioner, notice of the temporary restraining order, and notice of the date, time and place of the hearing regarding the injunction. Specify that the petition, the temporary restraining order or the injunction may not disclose the address of the alleged victim. In addition, provide that the guardian of an incompetent individual may file the petition for a domestic abuse order on behalf of the incompetent individual.

Require a judge or family court commissioner to issue a temporary restraining order ordering the respondent to avoid contracting or causing any person other than the party's attorney, as allowed under current law, or a law enforcement officer to contact the petitioner unless the petitioner consents in writing. Provide that a judge or family court commissioner may order any appropriate remedy that is not specified in the statutes as long as it is not inconsistent with the remedies requested in the petition.

Specify that the issuance of the court order is enforceable despite the existence of any other criminal or civil order restraining or prohibiting contact. Specify that a judge or family court commissioner may not dismiss or deny granting a temporary restraining order or an injunction because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

Require a judge or family court commissioner to hold an injunction hearing within 14 days, instead of seven, after the temporary restraining order is issued, unless the time is extended under certain circumstances defined by statute. Extend from two years to four years the maximum length of time of an injunction and an extension on an injunction. Provide that this injunction is not voided if the petitioner allows or initiates contact with the respondent.

Specify that a respondent who does not appear at a hearing at which the court orders an injunction but who has been served with a copy of the petition and notice of the time for the hearing has constructive knowledge of the existence of the injunction and must be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.

Specify that these provisions first apply on the effective day of the bill.

b. Domestic Violence or Sexual Assault Advocate-Victim Privilege. Provide that a victim of abusive conduct (child abuse, interspousal battery, domestic abuse or sexual assault) has a privilege to refuse to disclose and to prevent any other persons from disclosing confidential communications made or information obtained or disseminated among the victim, an advocate who is acting in the scope of his or her duties as an advocate, and persons who are providing counseling, assistance, or support services under the direction of an advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim. Specify that this privilege may be claimed by the victim, the victim's guardian or conservator, the advocate or, if the victim is deceased, by his or her personal representative. Specify that the privilege does not apply when the advocate is required to report incidents of child abuse. Currently, physicians, registered nurses, chiropractors, psychologists, social workers, marriage and family therapists and professional counselors are included under this privilege.

Specify that a communication of information is "confidential" if it is not intended to be disclosed to third persons other than persons present to further the interest of the person receiving counseling, assistance or support services, persons reasonably necessary for the transmission of the communication or information, and persons who are participating in providing counseling, assistance or support services under the direction of an advocate, including family members of the individual or members of any group of individuals with whom the person receives counseling, assistance or support services.

Specify that this privilege first applies to communications made or information obtained or disseminated on the effective date of the bill.

c. Modification of Stalking Offenses. Modify the elements and penalties relating to stalking offenses, as follows.

Definitions. Provide that the "course of conduct" underlying the offense of stalking would be redefined to mean a series of two or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following: (a) maintaining a visual or physical proximity to the victim; (b) approaching or confronting the victim; (c) appearing at the victim's workplace or contacting the victim's employer or coworkers; (d) appearing at the victim's home or contacting the victim's neighbors; (e) entering property owned, leased, or occupied by the victim; (f) contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues; (g) sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim; (h) placing an object on or delivering an object to property owned, leased, or occupied by the victim; (i) delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be

delivered to the victim; or (j) causing a person to engage in any of the acts described in (g), (h) or (i). Under current law, course of conduct is defined as repeatedly maintaining a visual or physical proximity to a person.

Provide that, for the offense of stalking, domestic abuse would have the meaning provided under law relating to domestic abuse restraining orders and injunctions, as expanded under these provisions (the expanded definition of domestic abuse is described under "Domestic Abuse Injunctions"). Define the term "domestic abuse offense" as an act of domestic abuse that constitutes a crime. Provide that "member of a family" would mean a spouse, parent, child, sibling, or any other person who is related by blood or adoption to another. Define the term "member of a household" as a person who regularly resides in the household of another or who within the previous 6 months regularly resided in the household of another. Under current law, immediate family is defined as a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior 6 months regularly resided in the household. The definitions of a member of a family or a member of a household would replace the definition of immediate family. Repeal the current law definition of "repeatedly" (meaning on two or more calendar days), which is currently used in the statutory definition of course of conduct.

Basic Stalking Offense. Provide that the penalty for the basic offense of stalking be increased from a Class A misdemeanor to a Class E felony (and reclassified to a Class I felony on the first day of the seventh month beginning after publication). The three criteria required for a basic stalking offense under current law would also be modified, as follows:

(1) The actor intentionally engages in a course of conduct (which, under the new definition, would require a series of two or more of the specified acts) directed at a specific person that would cause a reasonable person under the same circumstances to fear bodily injury to or the death of himself or herself or a member of his or her family or household.

Under current law, this criterion provides that the actor intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to himself or herself or a member of his or her immediate family or to fear the death of himself or herself or a member of his or her immediate family. The provision would add the element "under the same circumstances" and replaces the term immediate family with the term member of his or her family or household.

(2) The actor intends that at least one of the acts that constitute the course of conduct will place the specific person in reasonable fear of bodily injury to, or the death of, himself or herself or a member of his or her family or household.

Under current law, this criterion provides that the actor has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to himself or herself or a member of his or her immediate family or will be placed in reasonable fear of the death of himself or herself or a member of his or her immediate family. The provision would

delete the knowledge element and add the element that the actor intends that at least one of the acts that constitute the course of conduct will place the specific person in reasonable fear. The provision also replaces the term immediate family with the term member of his or her family or household.

(3) The actor's acts induce fear in the specific person of bodily injury to, or the death of, himself or herself or a member of his or her family or household.

Under current law, this criterion provides that the actor's acts induce fear in the specific person of bodily injury to himself or herself or a member of his or her immediate family or induce fear in the specific person of the death of himself or herself or a member of his or her immediate family. The provision replaces the term immediate family with the term member of his or her family or household.

New Class E Felony. Provide that whoever meets all of the following criteria would be guilty of a Class E felony (reclassified to a Class I felony on the first day of the seventh month beginning after publication): (a) after having been convicted of sexual assault or a domestic abuse offense, the actor engages in any act defined as a course of conduct for stalking, if the act is directed at the victim of the sexual assault or the domestic abuse offense; (b) the actor intends that the act will place the specific person in reasonable fear of bodily injury to, or the death of, himself or herself or a member of his or her family or household; and (c) the actor's act induces fear in the specific person of bodily injury to, or the death of, himself or herself or a member of his or her family or household. Include the violation in certain penalty enhancement provisions under current law relating to harassment offenses. This provision, under the sexual assault or domestic violence conditions described, would create a Class E felony offense based on a single act, as specified under the course of conduct definition. This differs from the basic stalking offense, which requires a series of two or more of the specified acts to be committed.

Class D Felony. Provide that whoever violates the basic stalking statute would be guilty of a Class D felony (reclassified to a Class H felony on the first day of the seventh month beginning after publication) if the actor intentionally gains access or causes another person to gain access to a record in electronic format that contains personally identifiable information regarding the victim in order to facilitate the violation. Under current law, it is a Class D felony if a person violates the basic stalking statute if he or she intentionally gains access to a record in electronic format that contains personally identifiable information regarding the victim in order to facilitate the violation. The provision would add the element relating to the actor causing another person to gain access to a record.

In addition, provide that the Class D felony penalty (reclassified to a Class H felony on the first day of the seventh month beginning after publication) would also apply to whoever violates the basic stalking statute under any of the following conditions: (a) the actor has a previous conviction for a violent crime or a previous conviction for stalking or for misdemeanor or felony harassment; (b) the actor has a previous conviction for a crime, the victim of that crime

is the victim of the present stalking violation and the present violation occurs within seven years after the prior conviction; (c) the person violates certain wiretapping provisions under current law in order to facilitate the violation; or (d) the victim is under the age of 18 years at the time of the violation.

Under this provision, violent crime includes: (a) first-degree intentional homicide; (b) first-degree reckless homicide; (c) felony murder; (d) second-degree intentional homicide; (e) homicide by negligent operation or handling of a dangerous weapon, explosives or fire; (f) battery offenses causing substantial bodily harm or great bodily harm; (g) mayhem; (h) first-, second- and third-degree sexual assault; (i) taking hostages; (j) kidnapping; (k) endangering safety by the use of a dangerous weapon; (l) disarming a peace officer; (m) arson of buildings; (n) molotov cocktails; (o) burglary involving a weapon, opening a depository by use of explosives or battery; (p) carjacking; (q) armed robbery; (r) first- and second-degree sexual assault of a child; (s) engaging in repeated acts of sexual assault of the same child; (t) great bodily harm or high probability of great bodily harm to a child; (u) sexual exploitation of a child; (v) causing a child to view or listen to sexual activity; (w) child enticement; (x) soliciting a child for prostitution; (y) abducting another's child by force or threat of force; (z) soliciting a child to commit a Class A or Class B felony; and (aa) use of a child to commit a Class A felony.

Class C Felony. Provide that whoever violates the basic stalking statute would be guilty of a Class C felony (reclassified to a Class F felony on the first day of the seventh month beginning after publication) if any of the following applies: (a) the act results in bodily harm to the victim or a member of the victim's family or household; (b) the actor has a previous conviction for a violent crime, for stalking or for misdemeanor or felony harassment, the victim of that crime is the victim of the present stalking violation and the present violation occurs within seven years after the prior conviction; or (c) the actor uses a dangerous weapon in carrying out any of the acts that constitute the course of conduct for stalking.

Under current law, it is a Class E felony if any of the following applies: (a) the act results in bodily harm to the victim; and (b) the actor has a previous conviction for stalking or for misdemeanor or felony harassment against the same victim and the present violation occurs within seven years after the prior conviction. Further, whoever commits this offense under all of the following circumstances is guilty of a Class D felony: (a) the person has a prior stalking conviction or a conviction for misdemeanor or felony harassment; and (b) the person intentionally gains access to a record in order to facilitate the current violation. The provision would: (a) repeal the Class D felony provisions under current law; (b) increase the Class E felony to a Class C felony (reclassified to a Class F felony on the first day of the seventh month beginning after publication) ; and (c) add the following elements: (1) the act results in bodily harm to a member of the victim's family or household; (2) the actor has a previous conviction for a violent crime, the victim of that crime is the victim of the present stalking violation and the present violation occurs within seven years after the prior conviction; and (3) the actor uses a

dangerous weapon in carrying out any of the acts that constitute the course of conduct for stalking.

[Act 109 Sections: 274m, 514c thru 514s, 519mb thru 519mz, 523c thru 523m, 657b thru 661b, 874x, 875b, 877g, 9309(2zy)&(2zz), 9359(3) and 9459(1)]

9. ACCESS TO TREATMENT RECORDS

Senate: Incorporate the provisions of ASA 1 to AB 592 into the bill, which would expand access to treatment records without the informed consent of persons who receive inpatient services for mental illness, developmental disabilities, alcoholism and drug dependency as follows: (a) if the person is no longer a patient at the inpatient facility, require the inpatient facility to identify the facility or other place, if known, at which the individual is located; and (b) require the inpatient facility to release information on whether or not an individual is a patient at the inpatient facility or, if the patient is no longer a patient at the inpatient facility, the facility or other place, if known, at which the individual is located, to the individual's sibling. Specify that current provisions relating to the release of this information, as modified by these provisions, would not apply if either federal law restricted the use of this information, or the individual has specifically requested that the information be withheld from the individual's parent, child, sibling or spouse.

Under current law, information regarding whether an individual is or is not a patient at an inpatient facility may be released, unless limited by federal law or regulations, without the informed written consent to: (a) the parents, children or spouse (but not the sibling) of an individual who is or was a patient at an inpatient facility; (b) a law enforcement officer who is seeking to determine whether an individual is on unauthorized absence from the facility; and (c) mental health professionals who are providing treatment to the individual at the time that the information is released to others. Currently, inpatient facilities are not required to identify the inpatient facility or other location, if known, where former patients are.

Conference Committee/Legislature: Delete provision.

HIGHER EDUCATIONAL AIDS BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $68,200	- $8,000	- $4,000	- $80,200

Governor: Reduce the agency's general program operations appropriation by $28,100 in 2001-02 and $40,100 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the agency's state operations appropriation by an additional $8,000. This amount represents an additional 1% reduction in the agency's state operations appropriation in 2002-03.

Assembly: Reduce the agency's state operations appropriation by an additional $4,000. This amount represents an additional 0.5% reduction in the agency's state operations appropriations in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9224(3)]

2. WHEG PROGRAM FOR UW STUDENTS [LFB Paper 1180]

GPR	$1,200,000

Governor: Provide $1,200,000 in 2002-03 to increase funding for the Wisconsin higher education grant (WHEG) program for UW students. This would increase total funding by 5.8% to $21,839,600 from $20,639,600 in 2002-03. This proposed level of funding in 2002-03 would represent a 10.6% increase over the $19,750,800 provided in 2001-02 under Act 16.

Under current law, the WHEG program provides need-based grants to resident undergraduates enrolled at UW campuses, Wisconsin Technical College System (WTCS) institutions and tribal colleges. Funding for WHEG awards is provided in three separate appropriations within HEAB, one GPR appropriation each for UW students, WTCS students and a PR appropriation for tribal college students.

Assembly: Delete $473,500 in 2002-03 provided for the WHEG program for UW students, which would provide a net increase of $726,500 in 2002-03 over the Act 16 amount appropriated in 2002-03. This would increase total funding by 3.52% to $21,366,100 from $20,639,600 in 2002-03. This proposed level of funding in 2002-03 would represent an 8.2% increase over the $19,750,800 provided in 2001-02 under Act 16.

Senate: Modify Joint Finance by increasing funding for the WHEG program for UW Students by $473,500 in 2002-03, which would provide a net increase of $1,673,500 in 2002-03. This would increase total funding by 8.1% to $22,313,100 from $20,639,600 in 2002-03. This proposed level of funding in 2002-03 would represent an 13.0% increase over the $19,750,800 provided in 2001-02 under Act 16.

Conference Committee/Legislature: Include the Governor's recommendation.

[Act 109 Section: 9224(1)]

3. LINK WHEG-UW FUNDING INCREASES TO TUITION INCREASE AT UW SYSTEM

Senate/Legislature: Link annual increases in the appropriation for the Wisconsin higher education grants for UW System students to the highest prior year increase for resident undergraduate tuition at any UW System institution starting in 2003-04. Effective July 1, 2003, modify the appropriation from a biennial sum certain to a sum sufficient appropriation. Provide that the appropriation amount in any year would be the prior year amount adjusted by the applicable percentage increase in undergraduate resident tuition, rounded to the nearest $100. Specify that if tuition decreased or was unchanged, funding would remain at the prior year amount.

[Act 109 Sections: 30hL, 99r and 9424(1d)]

4. WHEG PROGRAM FOR TECHNICAL COLLEGE STUDENTS [LFB Paper 1180]

GPR	$800,000

Governor: Provide $800,000 in 2002-03 to increase funding for the WHEG program for technical college students. This would increase total funding by 5.7% to $14,874,000 from $14,074,000 in 2002-03. This proposed level of funding in 2002-03 would represent a 9.1% increase over the $13,631,000 provided in 2001-02 under Act 16.

Assembly: Delete $304,600 in 2002-03 provided for the WHEG program for technical college students, which would provide a net increase of $495,400 in 2002-03. This would increase total funding by 3.52% to $14,569,400 from $14,074,000 in 2002-03. This proposed level

of funding in 2002-03 would represent a 6.9% increase over the $13,631,000 provided in 2001-02 under Act 16.

Senate: Modify Joint Finance by increasing funding for the WHEG program for technical college students by $304,600 in 2002-03, which would provide a net increase of $1,104,600 in 2002-03. This would increase total funding by 7.8% to $15,178,600 from $14,074,000 in 2002-03. This proposed level of funding in 2002-03 would represent an 11.4% increase over the $13,631,000 provided in 2001-02 under Act 16.

Conference Committee/Legislature: Include the Governor's recommendation.

[Act 109 Section: 9224(2)]

5. TUITION GRANT PROGRAM

Assembly: Provide $778,100 in 2002-03 to increase funding for the tuition grant (TG) program. This would increase total funding by 3.52% to $22,881,800 from $22,103,700 in 2002-03. This proposed level of funding in 2002-03 would represent a 6.1% increase over the $21,564,600 provided in 2001-02 under Act 16.

The tuition grant program provides need-based grants to resident undergraduates who attend private, nonprofit postsecondary institutions in Wisconsin.

Senate/Legislature: Delete provision.

HISTORICAL SOCIETY

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $860,300	- $101,200	- $50,600	- $1,012,100

Governor: Reduce the following GPR appropriations by a total of $354,200 in 2001-02 and $506,100 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	- $251,400	- $359,200
General Program Operations; Historic Sites and Museum Services	-102,800	-146,900
Total	-$354,200	-$506,100

Joint Finance: Reduce the Society's largest GPR state operations appropriation by an additional $101,200 in 2002-03. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03.

Assembly: Reduce funding by an additional $50,600 in 2002-03. This amount represents an additional 0.5% reduction in the agency's state operations appropriation in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9225(1) thru (3f)]

2. PROGRAM REVENUE LAPSES [LFB Paper 1121]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR-REV	$296,100	- $200,000	$96,100
PR-Lapse	296,100	- 200,000	96,100

Governor: Lapse a total of $121,900 in 2001-02 and $174,200 in 2002-03 to the general fund from the Society's PR admissions, sales and other receipts appropriation.

Senate/Legislature: Reduce the required lapses by $100,000 annually and require the Historical Society to allocate $100,000 annually for the Office of Local History and for the Historical Society library.

Veto by Governor [A-2]: Delete the provision that requires the Historical Society to allocate $100,000 annually for the Office of Local History and for the Historical Society library.

[Act 109 Section: 9259(1)]

[Act 109 Vetoed Section: 9125(1d)]

3. FUEL AND UTILITIES LAPSE ESTIMATE

GPR-Lapse	$69,600

Governor/Legislature: Estimate the 2001-02 lapse amount from the agency's energy costs appropriation at $69,600. The agency is currently appropriated $402,700 GPR in 2001-02 for energy costs. The agency's energy costs appropriation is not actually reduced under the bill; however, the fiscal effect of the estimated lapse is included in the general fund condition statement.

4. APPROPRIATION CONSOLIDATION

Joint Finance/Legislature: Consolidate the Historical Society's two GPR general program operations appropriations (general program operations and general program operations; historic sites and museum services). Make the necessary statutory and funding modifications to accommodate the consolidation including, eliminating the GPR general program operations appropriation for historic sites and museum services, transferring the funding and position authority to the remaining general program operations appropriation and modifying statutory references to reflect the consolidation.

[Act 109 Sections: 30m, 30p, 71m, 9225(3f) and 9425(1f)]

5. AUTHORITY TO CHARGE FEES

Joint Finance/Legislature: Authorize the Society to charge fees for services, in addition to those specifically authorized under Chapter 44 of the statutes governing the Historical Society, except in cases in which the statutes specifically prohibit the Society from charging fees for certain activities.

Under current law, Chapter 44 of the statutes authorizes the Historical Society to charge fees for a number of its services, including admission to historic sites and other Society-owned buildings, fees for use of the main library, sales of merchandise, fees relating to administration of the state historic rehabilitation credit program and fees for school services. The Society is specifically prohibited from charging fees to any faculty, academic staff or student of the University of Wisconsin System for use of the main library.

[Act 109 Section: 100m]

INSURANCE

1. PROGRAM REVENUE LAPSE [LFB Paper 1121]

GPR-REV	$6,111,000
PR-Lapse	6,111,000

Governor/Legislature: Lapse $5,457,500 in 2001-02 and $653,500 in 2002-03 to the general fund from unallocated revenue that is credited to OCI's general operations PR appropriation. Ninety percent of revenue OCI collects from fees and assessments is credited to this appropriation; the remaining 10% is deposited to the general fund. Revenue from licensing fees, filing fees, listing fees, certification fees, fees for examinations of insurers, fees assessed for the preparation and furnishing of certain documents, fees assessed for certified copies of OCI documents and revenue from the sale of OCI publications are credited to this appropriation to support OCI's regulatory function.

[Act 109 Section: 9259(1)]

2. FRATERNAL BENEFIT SOCIETIES

Joint Finance: Modify the current requirement that local lodges of a fraternal benefit society meet monthly in order to be considered a fraternal benefit society under Chapter 614 of the statutes, to instead require local lodges to meet at least once every three months.

Senate/Legislature: Delete provision.

3. HEALTH INSURANCE INITIATIVE

Assembly: Incorporate provisions of Assembly Bill 876, as passed by the Assembly, except the provisions relating to the small employer catastrophic care pilot program, into the bill. In addition: (a) request the Legislative Council to conduct a study of the rising costs of health insurance; (b) update state statutes with regard to medical savings accounts to reflect current federal law, and require any future changes to federal medical savings account statutes to automatically be adopted into Wisconsin state statutes (see Internal Revenue Code Update Item #1 under General Fund Taxes); and (c) exempt the 3.5 GPR positions authorized to administer the private employer health care coverage program under the Department of Employee Trust Funds (DETF) from the freeze on hiring staff to fill nonessential positions that began on November 12, 2001.

Incorporate the following provisions of AB 876, as passed by the Assembly.

Private Employer Health Care Coverage Program. Provide $850,000 GPR in 2001-02 to fund the operating costs for the private employer health care coverage program. In addition, authorize DETF to seek funding from any person for the payment of costs of designing, marketing and contracting for, or providing administrative services under the private employer health care coverage program and for lapsing funds to the general fund, as described below.

OCI Loan and Repayment. Require the Office of the Commissioner of Insurance (OCI) to lapse, no later than the first day of the second month after the effective date of the bill, $850,000 from its general program operations PR appropriation to the general fund as a loan to fund administrative costs of the private employer health care coverage program.

Require the general fund to repay the OCI loan, with interest, at the end of the 2001-03 biennium from: (a) moneys lapsed to the general fund from the private employer health care coverage administrative appropriation, if any; (b) moneys lapsed to the general fund from the private health care coverage program, to the extent that DOA and the Private Health Care Coverage Board determines program funds are sufficient to lapse; and (c) the general fund, if moneys lapsed from (a) and (b) are insufficient to repay the loan within a reasonable period of time, as determined by the secretary of DOA and the Insurance Commissioner (Commissioner).

Small Employer Catastrophic Reinsurance Program. Create a five-year catastrophic reinsurance program for small employers, generally two to 50 employees, administered by a Small Employer Catastrophic Reinsurance Board (Reinsurance Board) that would be attached to OCI for administrative purposes.

Specify that the Board would include the Insurance Commissioner and 10 other members, including: (a) two members who represent small employers who are selected from a list of nominees submitted by organizations representing small businesses; (b) four members who represent small employer insurers who are selected from a list of nominees submitted by organizations representing health insurers; (c) one physician selected from a list of nominees submitted by organizations representing physicians; and (d) one member who is a nurse who works in an executive position and who is selected from a list of nominees submitted by organizations representing nurses; and (e) two members who represent hospitals, including one member from a rural hospital and one member from an urban hospital, and who are selected from a list of nominees submitted by organizations representing hospitals. Specify that members would be appointed for three-year terms, except that the initial appointments would have staggered end dates, with the first expiring May 1, 2005 and the last terms expiring May 1, 2007. Provide that the Governor could remove any member for just cause.

Require a small employer insurer that chooses to participate in the program to select and report to OCI, by December 1, every other year, beginning in 2002 and ending in 2006, a threshold level of covered benefits, which may be:

- $50,000 in a calendar year;
- $100,000 in a calendar year;
- $150,000 in a calendar year; or
- $250,000 in a calendar year.

The threshold of benefits would apply to each insured under every group health benefit plan issued to a small employer in this state by the participating insurer submitting the report. The insurer would be allowed to limit the covered benefits to which the threshold level applies to either one or more types of health care facilities or the costs of one or more types of health care professionals, or any combination of those costs.

Beginning with 2003 and ending with 2007, for each of the two calendar years after the year a small employer insurer would submit a report detailing the amount of covered applicable benefits paid in a calendar year by the insurer on behalf of any insured under any applicable group health benefit plan which exceeded the threshold of covered benefits specified by that insurer. The small employer insurer would be reimbursed by the Reinsurance Board at a rate equal to 80% of the payments that exceeded the threshold in that calendar year, in accordance with procedures established by the Board and promulgated by OCI by rule.

Provide that reimbursements would be funded from a new appropriation in OCI. Funding would be supported by additional premiums charged by insurers that choose to participate in the program to small employers for plans issued or renewed on or between the specified dates under the program. Premiums would be determined by the Board and promulgated by OCI by rule, and would be based on a charge per covered individual that would generate sufficient moneys, in conjunction with provider discounts, to cover reimbursements to small employer insurers at 80% of the costs over their selected threshold levels.

Provider Discounts. Require OCI to promulgate a rule determined by the Board that establishes provider discount rates for charges for covered services provided to insureds under group health benefit plans that are issued or renewed to small employers on or between the specified dates. Specify that the rule may provide for higher provider discount rates for covered services for plans that are issued by insurers that specify higher threshold levels. Require the rule to provide that a provider's charges for which a small employer insurer seeks reimbursement must be discounted in the same proportion that the provider's charges bears to the total amount of provider charges for which the small employer insurer seeks reimbursement, and that the provider discount rates would apply only to services for which the Commissioner provides reimbursement. Require providers to the accept discount payment rates, as payments in full (except for any copayments, coinsurance or deductibles required under the plan) for the covered services and prohibit them from billing the employees receiving services to make up the difference.

Reinsurance Program Rule-Making Authority. Require OCI to promulgate rules developed by the Board to: (a) establish and periodically adjust premiums charged by insurers that participate in the program to small employers; (b) establish the dates to determine which plans would be affected by the program; (c) determine the deadlines for small employer insurers that participate in the program to forward premiums to the Board (the first premiums would be forwarded no later than July 1, 2003); (d) specify procedures participating insurers must use for collecting, segregating, holding in trust and forwarding premiums to the Board; and (e) specify procedures for participating insurers to obtain reimbursement, including documenting payment of covered benefits to which the threshold levels apply to determine whether a small employer insurer has paid its threshold.

Provide OCI emergency rule authority to promulgate these rules, as well as the rules that OCI is required to establish with regard to provider discounts, without providing evidence that a rule is necessary for the preservation of public peace, health, safety or welfare and without providing a finding of an emergency.

Prescription Drug Purchasing. Authorize DOA, or an entity with which DOA contracts, to assist a health care provider, insurer or self-insurer that acts in this state or that seeks to act in conjunction with associations of health care providers, insurers or self-insurers in other states to: (a) negotiate rebate agreements with manufacturers or labelers for prescription drugs; and (b) develop an in-state or multi-state purchasing group for direct negotiation with prescription drug manufacturers and labelers for reduced charges for prescription drugs.

Require DOA to report, by January 1, 2003, to the Governor, Joint Committee on Finance and Legislature, on all of the following: (1) participation by health care providers, insurers and self-insurers in negotiating rebate agreements and in developing purchasing groups required under these provisions; and (2) strategies that DOA proposes to pursue to reduce the costs for prescription drugs in this state.

Require DOA to report, by January 1, 2005, to the Governor, Joint Committee on Finance and Legislature, on the status of implementing rebate agreements and purchasing groups, including any success or lack of success in reducing prescription drug costs in the state.

Defined Contribution Plans for State Employees. In addition to health care coverage plans currently offered by the state, require the state to offer to all of its employees, a defined contribution plan that permits employees to choose the level of premiums, deductibles and co-payments, and to select the hospital and medical benefits offered under the plan. Specify that the offering of such plans would be subject to the Group Insurance Board determining that such a defined contribution plan is available in the area of the place of employment and approving of such a plan.

Under current law, the state is required to offer to all of its employees, at least two insured or uninsured health care coverage plans that provide substantially equivalent hospital and

medical benefits, including an HMO or preferred provider plan, if those plans are determined by the Group Insurance Board to be available in the area of the place of employment and are approved by the Board.

Independent Review. Modify current statutes relating to independent review procedures to provide that if an adverse or experimental treatment determination is made, an insurer would not be required to provide a notice of the insured's right to obtain an independent review of the decision if the insured used the internal grievance procedure, until the insurer sends notice of the disposition of the internal grievance, if the following apply:

- The health benefit plan contains a description of the independent review procedure including an explanation of the insured's rights, how to request a review, the time within which a review must be requested, and how to obtain a current listing of certified independent review organizations;

- The insurer includes, on its explanation of benefits form, a statement that the insured may have a right to an independent review after the internal grievance process and that an insured may be entitled to expedited independent review with respect to an urgent matter. The statement must also include a reference to the section of the policy or certificate that contains the description of the review procedure, and provide a toll-free telephone number and website, if appropriate, where consumers may obtain additional information regarding internal grievance and independent review processes; and

- For any adverse or experimental treatment determination for which an explanation of benefits is not provided to the insured, the insurer provides a notice that the insured may have a right to an independent review after the internal grievance process and that an insured may be entitled to expedited independent review with respect to an urgent matter. The notice shall also include a reference to the section of the policy or certificate that contains the description of the independent review procedure and a toll-free telephone number and website, if appropriate, where consumers may obtain additional information regarding internal grievance and independent review process.

The provision would take effect on the date stated in the notice published by OCI in the Wisconsin Administrative Register for which the independent review procedures begin operating.

Under current law, an insurer is required to provide notice of the insured's right to obtain an independent review whenever an adverse or experimental determination is made, including how to request the review, the time within which the review must be requested, and a current listing of certified independent review organizations. OCI is required to certify independent review organizations to ensure that they meet certain criteria. Once OCI has certified at least one organization, it is required to publish a notice in the Administrative Register, including a date that is two months after OCI has determined that at least one organization meets the

criteria, on which the independent review procedure will begin operating. OCI is currently still in the certification process.

Uniform Employee Application Forms. Require OCI to develop, by rule, in consultation with the life and disability advisory council established by the Commissioner, a uniform application that small employer insurers must use when small employers apply for coverage under a group health benefit plan. Every small employer insurer would be required to use the uniform application beginning no later than the first day of the 13th month after the effective date of the bill. OCI would be required to submit the proposed rules no later than the first day of the fifth month after the effective date of the bill, and would be required to revise the form at least every two years.

Uniform Claim Processing Forms. Require OCI to develop by December 31, 2003, a uniform claims processing form that would be used by all health care providers submitting claims to insurers and by all insurers processing claims, if the federal government has not developed such a form by July 1, 2003. Beginning no later than July 1, 2004, every health care provider and insurer would be required to use the uniform claim processing form developed by OCI.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provisions relating to uniform employee application forms and uniform claim processing forms.

[Act 109 Sections: 336j, 508s, 508t, 509e, 509jm and 9127(1x)]

4. PRIVATE EMPLOYER HEALTH CARE PROGRAM AND RATE RESTRICTIONS

GPR-Lapse	$850,000
GPR	$850,000

Senate: Include the following provisions relating to the private health care coverage program administered by the Department of Employee Trust Funds (DETF) and small employer rate regulation.

Private Employer Health Care Coverage Program. Provide $850,000 GPR in 2001-02 to fund the operating costs for the private employer health care coverage program administered by the DETF. In addition, authorize DETF to seek funding from any person for the payment of costs of designing, marketing and contracting for, or providing administrative services under the private employer health care coverage program and for lapsing to the general fund, as described below.

OCI Loan and Repayment. Require OCI to lapse, no later than the first day of the second month after the effective date of the bill, $850,000 from its general program operations PR appropriation to the general fund as a loan to fund administrative costs of the private employer health care coverage program. Provide that the amount lapsed would be considered a loan to the general fund and would accrue interest at the average rate earned by the state on its deposits in the state investment fund during the period of the loan.

Create a sum sufficient GPR miscellaneous appropriation to repay the loan, not to exceed the sum of the following: (1) any GPR amounts lapsed to the general fund from the DETF private employer health care coverage plan GPR appropriation; (2) the amounts lapsed to the general fund from the private employer health care coverage plan PR appropriation, to the extent that DOA and the Private Health Care Coverage Board determines that program funds are sufficient to lapse; and (3) any amount that is needed to repay all principle and interest costs on the loan, if funds under (1) and (2) are insufficient to repay the loan.

Require DOA to pay the principle and interest costs on the loan at the close of each fiscal year, beginning with 2002-03, from the moneys lapsed to the new appropriation. Provide that, if DOA determines, during any fiscal year, that lapsed moneys would be insufficient to repay the loan within a reasonable period of time, as determined by DOA and OCI, DOA would pay all remaining principle and interest costs on the loan after the close of that fiscal year.

Hiring Freeze Exemption. Exempt 3.5 GPR positions in DETF that administer the private employer health care coverage from any freeze on hiring staff to fill nonessential positions that is in effect on the effective date of the bill.

Small Employer Health Insurance Rate Restrictions. Specify that, under rules the Commissioner of Insurance is required to promulgate that establish restrictions on premium rates charged to small employers with similar case characteristics for the same or similar benefit design characteristics, the premium rates could not vary from the midpoint rate for those small employers by more than 10% of that midpoint rate, rather than 35% of that midpoint rate, as provided under current law.

Specify that this provision would take effect on September 1, 2003, and first apply to rates charged under policies or plans issued or renewed to small employers on September 1, 2003. Authorize OCI to promulgate emergency rules with regard to establishing restrictions on premium rates that small employer insurers may charge small employers to reflect this statutory change, without providing a finding of an emergency.

Conference Committee/Legislature: Include Senate provision except the provisions relating to small employer health insurance rate restrictions.

[Act 109 Sections: 52gm, 57b, 100ic, 100ix, 508r, 9116(1v) and 9216(1v)]

5. REQUIRED COVERAGE FOR TREATMENT OF NERVOUS AND MENTAL DISORDERS, ALCOHOLISM AND OTHER DRUG ABUSE PROBLEMS

Senate: Incorporate the provisions of Senate Bill 157, which relates to required insurance coverage for the treatment of nervous and mental disorders, alcoholism and other drug abuse (AODA) problems, into the bill.

Current State Law

Under current state law, certain group health insurance policies that provide coverage for inpatient and/or outpatient treatment must provide a certain level of minimum benefits for services for the treatment of nervous and mental disorders, alcoholism and other drug abuse problems in any policy year, as follows:

Services Covered	Required Coverage Level if Cost-Sharing	Required Coverage Level if No Cost-Sharing
Inpatient services	$7,000, minus cost-sharing	$6,300
Outpatient services	$2,000, minus cost-sharing	$1,800
Transitional treatment	$3,000, minus cost-sharing	$2,700

Total coverage for inpatient, outpatient and transitional arrangements for treatment of these conditions need not exceed $7,000, or equivalent benefits measured in services rendered in any policy year. Transitional treatment includes services specified by OCI rule that are provided in a less restrictive manner than inpatient services but in a more intensive manner than outpatient services.

Health care plans offered by limited services health organizations are exempt from these requirements. In addition, self-insured health care plans that are regulated by federal law under the Employee Retirement and Income Security Act of 1974 (ERISA) are not subject to these requirements.

Federal Law

Under the federal Mental Health Parity Act of 1996 (MHPA), group health plans, insurance companies and health maintenance organizations (HMOs) that offer mental health benefits are prohibited from setting annual or lifetime dollar limits on mental health benefits that are lower than such limits for medical and surgical benefits. Health plans that impose no limits for medical and surgical benefits may not impose limits for mental health benefits. The act does not require that plans that do not provide mental health benefits provide such benefits. MHPA does not apply to benefits for the treatment of AODA problems or to employers that

have fewer than 50 employees. Groups whose health insurance costs increase one percent or more due to the MHPA requirements may apply for an exemption.

In summary, while current state law specifies certain dollar limits for mental health and AODA coverage, under federal law, certain policies may not establish dollar maximums for mental health benefits. The MHPA sunset date of September 30, 2001, was recently extended to December 31, 2002.

Senate Bill 157

Group Policy Requirements. Eliminate the specified minimum coverage levels for treatment of nervous and mental disorders and AODA problems for group health benefit plans, health plans offered by the state and group insurance board and self-insured plans offered by the state, a county, city, village, town or school district. Instead, require such plans to provide the same coverage for treatment of nervous and mental disorders and AODA problems as provided for the treatment of physical conditions. Exempt certain preferred provider plans from the coverage requirements. Limited service health organizations would continue to be exempt from the mandatory coverage requirements.

Individual Health Benefit Plans. Require individual health benefit plans that provide coverage for the treatment of nervous or mental disorders or AODA problems to provide the same coverage for the treatment of those problems as provided for the treatment of physical conditions. Individual plans that do not provide coverage for the treatment of nervous or mental disorders or AODA problems would not be required to do so under this provision.

Equal Coverage Requirements. The equal coverage requirements would apply to all coverage-related components, including rates; exclusions and limitations; deductibles; copayments; coinsurance; annual and lifetime payment limits; out-of-pocket limits; out-of-network charges; day, visit or appointment limits; duration or frequency of coverage; and medical necessity definitions.

Applicability. The provisions would take effect on the first day of the sixth month after publication, and would first apply as follows: (a) for health benefit plans that are issued or renewed or self-insured plans that are established, extended, modified or renewed – on the effective date; (b) for health benefit plans covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with these provisions – the earlier of the day on which the collective bargaining agreement expires, or the day on which the collective bargaining agreement is extended, modified or renewed; and (c) for self-insured plans covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with these provisions – the earlier of the day on which the collective bargaining agreement expires, or the day on which the agreement is extended, modified or renewed.

Conference Committee/Legislature: Delete provision.

6. REQUIRED COVERAGE OF CONTRACEPTIVE ARTICLES AND SERVICES

Senate: Incorporate the provisions of Senate Bill 128, which relates to health insurance coverage for contraceptive articles and services, into the bill.

Required Coverage. Require every health insurance policy, including health care coverage offered by the state or Group Insurance Board, self-insured plans offered by a county, city, village or school district, cooperative association sickness care plans and managed care plans, that provides coverage of outpatient health care services, preventive treatments and services or prescription drugs and devices to provide coverage for all of the following: (1) contraceptive articles; (2) medical services, including counseling and physical examinations, for the prescription or use of a contraceptive article or of a procedure to prevent pregnancy; and (3) medical procedures performed to prevent a pregnancy. Provide that the coverage may be subject to exclusions or limitations, including copayments and deductibles, that apply generally to the benefits that are provided under the policy or self-insured plan.

Exemptions. Specify that these coverage requirements would not apply to: (a) disability insurance policies that cover only certain specified diseases; (b) health care plans offered by limited service organizations or preferred provider plans that are not managed care plans; (c) Medicare replacement policies, Medicare supplement policies or long-term care insurance policies; or (d) health insurance policies issued to certain religious employers, if the employer requests that the insurer issuing the policy not provide coverage on the basis that it would be contrary to the religious employer's religious tenets. Require a religious employer to provide written notice to a prospective insured under the policy, prior to the person's coverage, that the articles and services would not be covered on the basis of the employer's request.

Definitions. Define "contraceptive articles" as: (a) a drug, medicine, mixture, preparation, instrument, article or device of any nature that is approved by the U.S. Food and Drug Administration (FDA) for use to prevent a pregnancy, that is prescribed by a licensed health care provider and that may not be obtained without a prescription from a licensed health care provider; or (b) a hormonal compound that is taken orally and that is approved by the FDA for use to prevent a pregnancy. Specify that a "contraceptive article" would not include any drug, medicine, mixture, preparation, instrument, article or device of any nature prescribed for use in terminating the pregnancy of a woman who is known by the prescribing licensed health care provider to be pregnant.

Define a "religious employer" as an entity that meets the following criteria: (a) the inculcation of religious values is the purpose of the entity; (b) the entity employs primarily persons who share the religious tenets of the entity; (c) the entity serves primarily persons who share the religious tenets of the entity; and (d) the entity is exempt from filing a federal annual information return under certain sections of the Internal Revenue Code.

Applicability. Specify that the provisions would take effect on the first day of the sixth month beginning after the bill's publication, and would first apply to disability policies that are issued or renewed and self-insured plans that are established, extended, modified or renewed on that date. Policies covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with these provisions would be affected on the day, after the general effective date, on which the collective bargaining agreement expires or the day on which the agreement is extended, modified or renewed, whichever is earlier.

Conference Committee/Legislature: Delete provision.

7. REQUIRED STANDARD PLAN AND POINT-OF -SERVICE OPTIONS

Senate/Legislature: Modify the current requirements that employers that offer a health maintenance organization (HMO) or a preferred provider plan also must offer a standard plan and point-of-service option plan by: (a) eliminating the provision that states that an employer does not have to offer a standard plan, if after providing opportunity to enroll in a standard plan, fewer than 25 employees indicate that they wish to enroll in the standard plan; and (b) eliminating the provision that exempts employers with fewer than 25 full-time employees, cooperative associations and certain insurers that are authorized to engage in limited types of insurance business from standard plan and point-of-service option requirements.

Under current law, employers that offer employees a health maintenance organization (HMO) or preferred provider plan that provides comprehensive health care services must also offer employees a standard plan that provides at least substantially equivalent coverage and a point-of-service plan. Employers must provide the opportunity to enroll in such plans at least once annually, and must provide complete and understandable information concerning the differences among the different health plans. Employers with fewer than 25 full-time employees, cooperative associations and insurers that are authorized to engage in limited types of insurance business are exempt from these requirements.

Veto by Governor [C-8]: Delete provision.

[Act 109 Vetoed Sections: 509c thru 509d]

8. MEDICAL MALPRACTICE CLAIMS AGAINST STATE EMPLOYEES

Senate: Incorporate the provisions of Senate Bill 170, which would eliminate the requirement that a person who wishes to recover damages for medical malpractice against an officer, employee, or agent of the state for an act committed in the course of the officer's, employee's or agent's duties serve a notice of the claim with the Attorney General within 180 days after the discovery of the injury, or the date on which, in the exercise of reasonable

diligence, the injury should have been discovered. Instead, the same time limits for serving notice would apply to claims against state officers, employees and agents as apply to private health care providers, including claims filed by prisoners.

Under current law, certain time limits are placed on filing an action to recover damages for injury arising from any treatment or operation performed by, or from any omission by, a health care provider, as follows: (1) the later of, three years from the date of injury, or one year from the date the injury was discovered or, should have been discovered, except that an action may not be commenced more than five years from the date of the act or omission; (2) if a health care provider conceals from a patient a prior act or omission of the provider which has resulted in injury to the patient, an action must be commenced within one year from the date the patient discovers the concealment, or should have discovered the concealment, or the time limits under (1), whichever is later; or (3) when a foreign object which has no therapeutic or diagnostic purpose or effect has been left in a patient's body, an action shall be commenced within one year after the patient is aware of the presence of the object, or should have been aware of the presence of the object, or the time limits under (1), whichever is later. However, a person bringing a claim for damages for medical malpractice against an officer, employee or agent of the state for an act committed in the course of that person's duties, must serve a notice of the claim with the Attorney General within 180 days after the injury was discovered, or should have been discovered.

Conference Committee/Legislature: Delete provision.

INVESTMENT BOARD

1. VENTURE CAPITAL INVESTMENTS

Senate/Legislature: Require the State of Wisconsin Investment Board (SWIB) to make an effort before June 30, 2004, to invest not less than $50,000,000 in venture capital investment firms. The amounts newly invested would be in addition to any amounts that SWIB would have invested in such firms before enactment of the bill.

In selecting the venture capital firms in which to invest the funds, stipulate that SWIB would be subject to the current law standard of responsibility governing its placement and management of funds. This standard of responsibility requires SWIB to: (a) invest with the care, skill, prudence and diligence that a prudent person acting in similar capacity with the same resources would exercise; (b) diversify the investments to minimize the risk of large losses; and

(c) administer the invested assets solely to fulfill the purposes of each trust or fund at a reasonable cost.

In making the new investments, require SWIB to consider all of the following:

- The experience of the venture capital investment firms in making investments.

- The commitment of the venture capital investment firms to making venture capital investments in the health care, biotechnology and other technological industries.

- The willingness of the venture capital investment firms to make at least 75% of the investments in businesses headquartered in this state.

- Whether the venture capital investment firms have a place of business in Wisconsin.

- The overall experience of the venture capital investment firms in making investments in businesses that are in the venture capital stage.

- The relationships that the venture capital investment firms have with technology transfer organizations, such as the Wisconsin Alumni Research Foundation, Inc.

- The ability of the venture capital investment firms to do lead and follow-on investments.

Specify that any venture capital investment firm in which SWIB makes a venture capital investment must make an effort to invest the funds in businesses located in the areas of: Green Bay, Eau Claire, Madison, Janesville-Beloit, La Crosse, Stevens Point-Marshfield, Racine-Kenosha, Milwaukee, Sheboygan-Manitowoc, Superior, the Fox River Valley, and Wausau and within the boundaries of any federally recognized Indian reservation. Direct SWIB to determine the geographic boundaries of each area.

Stipulate that the above provisions would neither limit the authority of SWIB to make any other investments that are otherwise authorized by law nor restrict the Board's (or any venture capital investment firm's) authority to make investments in any area of the state.

Under current law, SWIB may invest up to 2% of the admitted assets of the Fixed Retirement Investment Trust and the Variable Retirement Investment Trust in loans, securities and investments of corporations and limited liability companies that are in the venture capital stage. The approximate current value of both Retirement Trusts is $57.5 billion; consequently, the current statutory ceiling on the value of all SWIB venture capital investments is approximately $1.2 billion. Currently, SWIB has approximately $210 million actually invested in its venture capital portfolio. In some cases, SWIB may also have made future commitments

to invest additional amounts in current venture capital portfolios. These future commitments are not reflected in the current $210 million figure.

Veto by Governor [F-2]: Delete the provision specifying that any venture capital investment firm in which SWIB makes a venture capital investment must make an effort to invest the funds in businesses located in the areas of: Green Bay, Eau Claire, Madison, Janesville-Beloit, La Crosse, Stevens Point-Marshfield, Racine-Kenosha, Milwaukee, Sheboygan-Manitowoc, Superior, the Fox River Valley, Wausau and within the boundaries of any federally recognized Indian reservation and directing SWIB to determine the geographic boundaries of each area.

[Act 109 Section: 79s]

[Act 109 Vetoed Section: 79s]

JUDICIAL COMMISSION

1. ACROSS-THE-BOARD BUDGET REDUCTION

	Jt. Finance	Legislature (Chg. to JFC)	Net Change
GPR	- $2,200	- $1,100	- $3,300

Joint Finance: Reduce the Judicial Commission's largest sum certain GPR state operations appropriation, general program operations, by $2,200 in 2002-03. This amount represents 1% of the agency's GPR appropriations for state operations in 2002-03. Provide that the Commission may submit a request to the Joint Committee on Finance under s. 13.10, to reallocate the 1% reduction to other Commission sum certain GPR appropriations for state operations.

Assembly: Reduce the Judicial Commission's largest sum certain GPR state operations appropriation, general program operations, by an additional $1,100 in 2002-03. This amount represents 0.5% of the agency's GPR appropriations for state operations in 2002-03. Provide that the Commission may submit a request to the Joint Committee on Finance under s. 13.10, to reallocate the 0.5% reduction to other Commission sum certain GPR appropriations for state operations.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9259(7z)]

JUSTICE

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $3,222,100	- $347,600	- $173,800	- $3,743,500

Governor: Reduce the following GPR appropriations by a total of $1,318,300 in 2001-02 and $1,903,800 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount 2001-02	2002-03
Legal Services General Program Operations	- $436,800	- $625,300
Legal Expenses	-31,000	-44,200
Law Enforcement Services General Program Operations	-480,400	-705,000
Computers for TIME System	-36,400	-51,900
Weed & Seed and Law Enforcement Technology	-17,500	-25,000
Gaming Law Enforcement	0	-400
Administrative Services General Program Operations	-154,000	-220,200
Victim and Witness General Program Operations	-31,900	-45,700
Awards for Victims of Crime	-46,300	-66,200
Reimbursement for Victim and Witness Services	-52,400	-74,900
Special Counsel	-29,800	-42,500
Officer Training Reimbursement	-1,800	-2,500
Total	-$1,318,300	-$1,903,800

Joint Finance: Reduce the Department of Justice's (DOJ's) largest GPR state operations appropriation, law enforcement services' general program operations appropriation, by an additional $347,600 in 2002-03. This amount represents an additional 1% reduction in the agency's GPR state operations appropriations in 2002-03. Provide that DOJ may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to other DOJ sum certain state operations appropriations funded from GPR.

Assembly: Reduce DOJ's largest GPR state operations appropriation, law enforcement services' general program operations appropriation, by an additional $173,800 in 2002-03. This amount represents an additional 0.5% reduction in the agency's GPR state operations appropriations in 2002-03. Provide that DOJ may submit a request to the Joint Committee on Finance under s. 13.10, to reallocate any amount of this 0.5% reduction to other DOJ sum certain state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 41r, 9231(1) thru (10) and 9259(7z)&(8)]

2. RACING-RELATED LAW ENFORCEMENT [LFB Paper 1103]

SEG-REV	- $8,800
GPR	- $8,800
PR	8,800
Total	$0

Joint Finance/Legislature: Delete $8,800 GPR and provide $8,800 PR in 2002-03 for racing-related law enforcement and repeal the GPR gaming law enforcement appropriation, effective July 1, 2002. Because excess racing revenue is transferred to the lottery fund, this would reduce lottery fund proceeds by an estimated $8,800 in 2002-03.

[Act 109 Sections: 41r, 9231(11f) and 9431(1g)]

3. LAW ENFORCEMENT TRAINING ON TERRORISM

Governor/Legislature: Require that the prepatory program of law enforcement training include training on responding to acts of terrorism. The provision would first apply to persons being appointed law enforcement officers or tribal law enforcement officers on January 1, 2003.

"Act of terrorism" would mean a felony under the criminal penalty chapters, excluding the uniform controlled substances act chapter, that would be committed with an intent to terrorize and would be committed under any of the following circumstances: (a) the person committing the felony caused bodily harm, great bodily harm, or death to another; (b) the person committing the felony caused damage to the property of another and the total property

damaged was reduced in value by $25,000 or more (property would be considered reduced in value by the amount that it would cost to either repair or replace it, whichever would be less); or (c) the person committing the felony used force or violence, or the threat of force or violence.

[Act 109 Sections: 327, 339, 340 and 9359(6)]

4. INVESTIGATION AND PROSECUTION COSTS

GPR-REV	$60,000

Assembly: Delete DOJ's investigations and prosecution appropriation and provide that DOJ no longer be credited 10% of all moneys received for the expenses of investigation and prosecution of violations, including attorneys fees, under the following statutes: (a) medical assistance; (b) marketing and trade practices; (c) trusts and monopolies; (d) water and sewage; (e) pollution discharge elimination; (f) solid waste facilities; (g) remedial action; (h) metallic mining; (i) nonmetallic mining reclamation; and (j) general environmental provisions. It is estimated that this will increase revenue to the general fund by $60,000 in 2002-03.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-1]: The Governor's partial veto of the provisions which would have transferred consumer protection to DOJ, eliminates a section of the act deleting the 10% credit to the repealed investigations and prosecution appropriation of all monies received for the expenses of investigation and prosecution of violations under the marketing and trade practices chapter. As a result, Act 109 maintains prior law to preserve this credit to the repealed appropriation. Since the appropriation no longer exists, revenues will be deposited to the general fund.

[Act 109 Sections: 41m, 128g, 298n, 369n, 369q, 370n, 372g, 372n, 372q and 373n]

[Act 109 Vetoed Section: 267kf]

5. AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM WORKSTATION GRANT TO THE CITY OF RACINE

GPR	$63,200

Senate/Legislature: Provide $63,200 in 2002-03 to the Department of Justice (DOJ) and require DOJ to provide a one-time grant to the City of Racine Police Department in 2002-03 for the purchase of an automated fingerprint identification system (AFIS) workstation and for the installation of a Badgernet line for the workstation. Require DOJ and the City of Racine Police Department to enter into an agreement regarding the duties and obligations of both with respect to: (a) the use of the AFIS workstation; and (b) the use of, and access to, the state AFIS

and other criminal record databases. Create an automated fingerprint identification system grant appropriation for this purpose and provide that the appropriation be repealed effective July 1, 2003.

[Act 109 Sections: 26 (as it relates to s. 20.455(2)(cr)), 41n, 41nb, 9131(2x) and 9431(2x)]

6. CRIME VICTIM SERVICES

Senate: Modify provisions regarding crime victim services as follows:

Awards for the Victims of Crime

Expand the Number of Compensable Acts Under the Program. Provide that DOJ may order the payment of an award for personal injury or death which results from a felony committed with intent to influence the policy of a governmental unit or to punish a governmental unit for a prior policy decision if: (a) the crime caused bodily harm, great bodily harm, or death to another; (b) the crime caused damage to the property of another and the total property damaged is reduced in value by $25,000 or more (property is reduced in value by the amount that it would cost either to repair or to replace it, whichever is less); (c) the crime used force or violence or the threat of force or violence; and (d) the conduct did not arise out of or in connection with a labor dispute. Further provide that DOJ may order the payment of an award for personal injury or death which results from: (a) aiding or attempting to aid a victim of the newly included offense; and (b) the commission or the attempt to commit incest with a child, causing a child to view or listen to sexual activity, soliciting a child for prostitution or sexual intercourse with a child age 16 or older. Expand the category of compensable acts to include: (a) a child who observes or hears an act of domestic abuse; or (b) a person who witnesses a violent crime involving death or great bodily harm.

Under current law, the state's crime victim compensation program compensates victims and their dependents for the cost of medical treatment, lost wages, funeral and burial expenses, loss of support to dependents of a deceased victim, and replacement costs of any clothing or bedding that is held for evidentiary purposes. In addition, victims who are homemakers may be compensated for expenses related to securing homemaker services when someone must be hired to perform these services.

Expand the Class of Eligible Award Recipients Under the Program. Provide that DOJ may order the payment of an award to: (a) a child who observes or hears an act of domestic abuse; or (b) a person who witnesses a violent crime involving death or great bodily harm.

Expand the Types of Economic Losses For Which DOJ Makes Awards. Provide that DOJ must make awards, as appropriate, for the following economic losses incurred as a direct result of an injury: (a) up to one week of net salary for a person taking unpaid leave from work to care for a

victim who has suffered personal injury as a result of acts that are compensated under the program, if the victim is one of the person's family members, or if the person is the legal guardian for the victim, not to exceed $500 per incident; (b) reasonable funeral and burial expenses, not to exceed $3,000, instead of the current $2,000; and (c) mental health treatment for a child's custodial parent or legal guardian that the parent or guardian obtains for himself or herself in response to sexual assault, sexual assault of a child, engaging in repeated acts of sexual assault of the same child, physical abuse of a child, causing a child to view or listen to sexual activity, incest with a child, child enticement, soliciting a child for prostitution, sexual intercourse with a child age 16 or older, or sexual assault of a student by a school instructional staff person against his or her child.

Provide that DOJ may order the payment of an award to a person for mental health treatment directly related to: (a) a child's reaction to observing or hearing an act of domestic abuse; and (b) a person's reaction to witnessing a violent crime involving death or great bodily harm. Specify that DOJ must establish limits to these latter mental health treatment awards under (a) and (b) above.

Use of Federal Funds to Pay Crime Victim Awards. Eliminate current statutory provisions which require: (a) the use of federal funds for certain victim awards or certain portions of victim awards; and (b) DOJ to make payments from federal funds to the extent that moneys are available. Require DOJ rules to include procedures to ensure that any limitation of an award, not just awards being provided from federal funds, be calculated in a fair and equitable manner.

Under current law, funding is provided for the crime victim compensation program from state general purpose revenues (GPR), part "A" of the crime victim and witness assistance surcharge and from federal grants awarded under the 1984 federal Victims of Crime Act (VOCA), as amended. The state's maximum award for any one injury or death is $40,000 (in addition to the $2,000 maximum reimbursement of burial expenses that may be awarded). Current law requires: (a) the use of federal funds for certain victim awards or certain portions of victim awards; (b) DOJ to make payments from federal funds to the extent that moneys are available; and (c) DOJ rules to include procedures to ensure that any limitation of an award due to statutory provisions governing these federal funds be calculated in a fair and equitable manner.

Definition-Personal Injury

Provide that "personal injury" means any of the following: (a) actual bodily harm; (b) pregnancy resulting from sexual assault; and (c) emotional trauma. Under current law, personal injury means actual bodily harm and includes pregnancy and mental or nervous shock. DOJ may order the payment of an award for personal injury or death which results from a variety of acts determined to be eligible under the statutes.

Definition-Medical Treatment

Expand the definition of "medical treatment" to include: (a) mental health care; and (b) other recognized treatment for cure or relief from the effects of injury. Under current law, medical treatment includes medical, surgical, dental, optometric, chiropractic, podiatric and hospital care; medicines, medical, dental and surgical supplies; crutches; artificial members; and appliances and training in the use of artificial members and appliances. Medical treatment also includes Christian Science treatment. Under current law, DOJ must make awards, as appropriate, for medical treatment incurred as a direct result of injury.

Definition-Victim

Expand the definition of "victim" to also mean a person who is injured or killed as a result of a felony committed with intent to influence public policy. Under current law, parties associated with victims may receive payment under the victim compensation program under specific circumstances.

Informing Victims of Their Right to Make Statements Before Sentencing

Eliminate the provisions that district attorney or corporation counsel duties to inform victims of their right to make or provide a statement to the court apply: (a) after a finding that a juvenile is delinquent or is found to be in need of protection or services; or (b) after conviction. Instead, provide that victims of crime have the right at any time to have reasonable attempts made to notify them of their right to make or provide a statement.

Under current law, the district attorney or corporation counsel (in proceedings under the Juvenile Justice Code) must make a reasonable attempt to contact any known victim to inform that person of the right to make or provide a statement to the court before it imposes a disposition or sentence: (a) after a finding that a juvenile is delinquent or is found to be in need of protection or services; or (b) after conviction.

Hearings Under the Victim Awards Chapter and Confidentiality of Records

Provide that the examiner and the Department of Administration (DOA) must keep confidential the address, the electronic address, and the telephone number of each victim, applicant, and member of the victim's family or household. Specify that the record of a proceeding before an examiner or DOA is a public record except that the examiner and DOA must keep the above information confidential. Further, provide that the hearing examiner may close a hearing or a portion of a hearing in a particular case with regard to the fact that the offender has not been convicted or to the interest of the victim of an alleged sexual offense.

Under current law, all hearings must be open to the public unless in a particular case the examiner determines that the hearing, or a portion thereof, must be held in private having

regard to the fact that the offender has not been convicted or to the interest of the victim of an alleged sexual offense. Further, the record of a proceeding before an examiner or DOA is a public record. Any record or report obtained by an examiner or DOA, the confidentiality of which is protected by any other law or rule, must remain confidential.

Effective Dates

Specify that provisions providing payments related to a child's reaction to observing or hearing an act of domestic abuse would take effect on October 1, 2002. Specify that provisions providing payment of an award to a person who witnesses a violent crime involving death or great bodily harm, and new types of economic loss for which compensation could be received, would take effect on October 1, 2003.

Conference Committee/Legislature: Delete provision.

LEGISLATURE

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$0	$5,116,900	$267,900	$5,384,800
GPR	- $5,263,500	$4,500,600	- $40,200	- $803,100

Governor: Reduce the following GPR appropriations by a total of $2,182,400 in 2001-02 and $3,081,100 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
Assembly	- $746,700	- $1,046,300
Senate	-522,800	-724,500
Legislative Documents	-275,500	-393,600
Retirement Committees	-6,400	-9,100
Actuarial Studies	-500	-700
Revisor of Statutes	-25,800	-36,900
Legislative Reference Bureau	-145,800	-224,900
Legislative Audit Bureau	-153,900	-219,900
Legislative Fiscal Bureau	-110,700	-155,400
Legislative Council	-114,500	-159,500
Legislative Technology Services Bureau	-74,200	-102,400
Memberships in National Associations	-5,600	-7,900
Total	-$2,182,400	-$3,081,100

Joint Finance: Maintain Act 16 funding levels except for the reductions to Legislative Documents and Memberships in National Associations. Require that the Co-chairs of the Joint Committee on Legislative Organization take actions to ensure that during the 2001-03 biennium an amount equal to a total of $5,116,900 GPR is lapsed to the general fund from the GPR appropriations to the Legislature for all other state operations (including the capitol offices relocation costs appropriation under Item #5). These lapse amounts are equal to a 3.5%/6% reduction to the Act 16 GPR state operations levels for the Assembly, the Senate, the legislative service agencies and the retirement committees (including actuarial studies). Reduce the legislative documents appropriation by $78,700 and the membership in national associations appropriation by $1,600. These amounts represent an additional 1% reduction in these state operations appropriations in 2002-03.

Assembly: Include Joint Finance provision except increase the required GPR lapse by $267,900 to provide an additional lapse equivalent to an additional 0.5% reduction in 2002-03 to the Act 16 GPR state operations levels for the Assembly, Senate, the legislative service agencies and the retirement committees (including actuarial studies). Also, reduce the legislative documents appropriation by $39,400 and the memberships in national associations appropriation by $800. These amounts represent an additional 0.5% reduction in 2002-03 to these state operations appropriation.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9232(8z) and 9259(8)]

2. REDUCTIONS FOR ELIMINATION OF LEGISLATIVE CAUCUS STAFFS

GPR	- $4,000,000

Governor/Legislature: Reduce the appropriations for the Senate and Assembly by $1,000,000 GPR respectively in 2001-02 and in 2002-03 because of the elimination of the legislative staff for the partisan caucuses in each house as a result of 2001 Wisconsin Act 19.

[Act 109 Section: 9259(8)]

3. ECONOMIC IMPACT ESTIMATE ON BILLS [LFB Paper 1185]

Governor: Require that any bill having an economic impact on a private person or a political subdivision of this state must have an estimate of the anticipated economic impact of the bill prepared before: (a) any vote is taken on the bill by either house if the bill is not referred to a standing committee; or (b) before any public hearing is held on the bill by any standing committee; or (c) if no public hearing is held on the bill, before any vote is taken on the bill by a standing committee. Provide that the economic impact estimate be prepared by the agency that would be responsible for administering the law creating the economic impact. Specify that economic impact estimates shall be printed and distributed in the same way that fiscal estimates to bills are distributed. Stipulate that biennial budget bills are exempt from the economic impact estimate requirement.

Joint Finance/Legislature: Delete provision.

4. ECONOMIC IMPACT ASSESSMENT ON ADMINISTRATIVE RULES [LFB Paper 1185]

Governor: Require that DOA prepare, for any proposed administrative rule that may have an economic impact on a private person or a political subdivision of the state, an economic impact assessment. Specify that the assessment be completed before the proposed rule is submitted to the Legislative Council's Administrative Rules Clearinghouse. Stipulate that the assessment evaluate the costs and benefits of complying with the proposed rule and the potential impact of the rule on the policy decisions of private persons and political subdivisions of the state. Provide that the assessment shall also include alternatives to the rule that would reduce any negative impact of the rule on private persons and political subdivisions. Direct that DOA submit the required economic impact assessment to the agency that proposed the rule and to the Legislative Council at the same time that the promulgating agency submits the proposed rule to the Legislative Council's Administrative Rules Clearinghouse. Require that the report to the Legislature that must accompany any proposed administrative rule submitted

to the Legislature for its review include any economic impact assessment that has been prepared for the proposed rule.

Joint Finance/Legislature: Delete provision.

5. CAPITOL OFFICES RELOCATION COSTS APPROPRIATION

GPR	$2,652,000

Joint Finance/Legislature: Create a biennial appropriation under the Legislature for new office relocation costs related to the Assembly, Senate and the legislative service agencies. Appropriate $2,652,000 in 2001-02 (which would be offset by an equal reduction in the appropriation under Miscellaneous Appropriations where the cost reduction is shown). Provide that expenditures from this new appropriation may be made only upon the approval of the Co-chairs of the Joint Committee on Legislative Organization.

[Act 109 Sections: 26 (as it relates to s. 20.765(4)(a)), 52m and 9259(8)]

6. ELIMINATE LEGISLATIVE HOTLINE

Assembly: Provide for the end of the legislative hotline, effective July 1, 2002. Delete 2.0 FTE authorized positions that staff the hotline and reduce the Assembly and Senate general program operations appropriations by $30,000 GPR each in 2002-03. Specify that the central legislative hotline number no longer be included on the state maps published by the Department of Transportation.

Senate/Legislature: Delete provision.

7. OUT OF SESSION ALLOWANCE

Assembly: Repeal the statutory provision providing for the out-of- session allowance for legislators, effective July 1, 2002. This allowance ($75 per month for Senators and $25 per month for Representatives) may be paid for any month in which the Legislature is not in actual session for more than three days. While this allowance is authorized for both Representatives and Senators, the Assembly is not currently paying this allowance. Reduce the appropriation for the Senate by $12,300 GPR in 2002-03.

Senate/Legislature: Delete provision.

8. LEGISLATIVE AUDIT BUREAU: LARGE PROGRAM PERFORMANCE AND SUPERVISOR/STAFF RATIO AUDITS; FRAUD AND WASTE REPORTS

Senate/Legislature: Require that the Legislative Audit Bureau conduct, at least once every five years, a management and performance evaluation audit of each large program in state government and direct that the required audit include an appraisal of all management practices, operating procedures and organizational structures related to the program being audited including recommendations for improvement and efficiency and a report of any illegal or improper expenditures. Provide that the audit could be performed either as a part of an agency's required quinquennial financial audit or as a separate audit. Specify that a large program would be all of activities that are financed from appropriations included within one of the following programs denominated under the schedule of appropriations under Chapter 20 of the statutes:

	Chapter 20 Program	
Agency	Appn. No.	Program Title
Public Instruction	20.255 (2)	Aids for Local Educational Programming
University of Wisconsin System	20.285 (1)	University Education, Research and Public Service
Wisconsin Technical College System	20.292 (1)	Technical College System
Transportation	20.395 (1)	Aids
	20.395 (2)	Local Transportation Assistance
	20.395 (3)	State Highway Facilities
Corrections	20.410 (1)	Adult Correctional Services
	20.410 (3)	Juvenile Correctional Services
Health and Family Services	20.435 (2)	Care and Treatment Facilities
	20.435 (3)	Children and Family Services
	20.435 (4)	Health Services Planning, Regulation and Delivery; Health Care Financing; and Other Support Programs
	20.435 (6)	Supportive Living; State Operations
Workforce Development	20.445 (1)	Workforce Development
	20.445 (3)	Economic Support
Shared Revenue and Tax Relief	20.835 (1)	Shared Revenue Payments
	20.835 (2)	Tax Relief
	20.835 (3)	State Property Tax Credits
	20.835 (4)	County and Local Taxes

Require that the LAB also conduct, at least once every five years, a management and performance evaluation audit that reviews, for every executive branch agency in state government that has more than 100 authorized full-time equivalent employees, the supervisor-to-staff ratios in that agency. Also require that the LAB establish a toll-free telephone number with voice-mail capability to receive reports of fraud, waste or abuse in state government and

publicize the toll-free number on the Bureau's website. Specify that the LAB shall investigate these reports and maintain records to permit the release of such information without revealing the informant's identity.

Veto by Governor [E-15]: Delete provision.

[Act 109 Vetoed Section: 11m]

9. LEGISLATIVE COUNCIL STUDY OF CONSOLIDATION OF MUNICIPAL AND COUNTY ELECTION SERVICES

Senate/Legislature: Request that the Legislative Council conduct a study of the of election administration services performed by municipalities and by counties and prepare recommendations for consolidation of such services. Provide that if the Council conducts the requested study, the Council shall report its findings, conclusions and recommendations to the 2003 Legislature when it convenes.

[Act 109 Section: 9132(3q)]

LIEUTENANT GOVERNOR

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Assembly/Leg. (Chg. to JFC)	Net Change
GPR	- $47,900	- $5,600	- $2,800	- $56,300

Governor: Reduce the Lieutenant Governor's Office general operations appropriation by $19,700 in 2001-02 and $28,200 in 2002-03. These amounts represent 3.7% of the appropriation in 2001-02 and 5.3% in 2002-03.

Joint Finance: Reduce the Office's general operations appropriation by an additional $5,600. This amount represents an additional 1% reduction in the Office's state operations appropriation in 2002-03.

Assembly/Legislature: Reduce the Office's general operations appropriation by an additional $2,800. This amount represents an additional 0.5% reduction in the Office's state operations appropriation in 2002-03.

[Act 109 Section: 9233(1)]

MILITARY AFFAIRS

1. ELIMINATION OF THE YOUTH CHALLENGE PROGRAM [LFB Paper 1190]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $1,280,400	- 17.20	$0	0.00	- $1,280,400	- 17.20
FED	- 1,912,600	- 25.80	1,912,600	25.80	0	0.00
PR	0	0.00	1,280,400	17.20	1,280,400	17.20
Total	- $3,193,000	- 43.00	$3,193,000	43.00	$0	0.00

Governor: Delete $1,280,400 GPR and $1,912,600 FED in 2002-03 and eliminate 17.2 GPR and 25.8 FED positions to reflect the July 1, 2002, repeal of both the GPR-funded appropriation for the Youth Challenge program and the requirement that the Department operate the program. Under provisions of the 1998 Defense Appropriation Act, the program is currently funded on a 60% FED / 40% GPR basis.

The Youth Challenge program is a 22-week residential program for youth aged 16 to 18 who are high school dropouts or habitual truants who will not graduate from high school. The goal of the program is to aid these youth in learning life skills, increasing their employment potential and preparing them for the high school equivalency degree exam. The program was originally authorized by 1997 Wisconsin Act 237. Since inception, the program has averaged 104 enrollees per class. The number of graduations per class has averaged 76, with 64 per class attaining a high school equivalency diploma.

Joint Finance: Restore the requirement that DMA operate the Youth Challenge program. Create two new program revenue continuing appropriations under DMA for state matching funds for the Youth Challenge program funded from transfers from DPI and from county governments. Estimate expenditures under the transfers from DPI appropriation at $1,280,400

PR in 2002-03 and authorize 17.2 PR positions for the Youth Challenge program. Restore $1,912,600 FED in 2002-03 and 25.8 FED positions for the program.

Require DMA to calculate annually 40% of the average cost per cadet attending the Youth Challenge Academy. Require DMA to submit information on each cadet to the public school district in which they would have been enrolled, based on the residence of their custodial parent or guardian. Custodial parent or guardian would be defined as the person who claims the cadet as a dependent.

Specify that the school district where a cadet's custodial parent or guardian resides at the time of the cadet's enrollment in the Youth Challenge Academy in the prior year could count that cadet as 1.0 FTE in its membership if that cadet was not counted under other membership provisions. Specify that, for each cadet enrolled at the Academy, DPI decrease the equalization aid (or other state school aid payments received by the district, if necessary) that would be paid to the relevant school district by either an amount equal to the current year revenue per pupil for the district under revenue limits or an amount equal to the average per-cadet cost at the Youth Challenge Academy, as calculated by DMA, whichever is less. Require DPI to ensure that the aid adjustment does not affect the amount of equalization aid determined to be received by the district for any other purpose. Specify that these adjustments not be considered in determining a school district's revenue limit. Require DPI to remit the total funding withheld from school districts under these provisions to DMA for crediting to the new PR appropriation funded from this source.

If the amounts received from school district payments are insufficient to cover the calculated average costs of a student, require DMA to notify the county of the residence of the youth, based on the residence of the cadet's custodial parent or guardian. Require the county to make a payment to DMA's county funds program revenue appropriation for the support of the Youth Challenge program in the amount of insufficient school district payments. Specify that the county payment would be made from state-funded Youth Aids.

Assembly: Delete provisions: (a) requiring DMA to notify the county of residence of a youth, based on the residence of the cadet's custodial parent or guardian, when the amounts received from the school district are insufficient to cover the calculated average costs of a student; (b) requiring the county to pay the amount of the insufficiency to DMA from state-funded Youth Aids; and (c) establishing a program revenue continuing appropriation under DMA for the receipt of these county funds. [The deletion of the DMA appropriation for the receipt of county funds also inadvertently deleted the repeal of a DOA appropriation that funds annual grants to the Wisconsin Patient Safety Institute, Inc.]

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 31, 43c, 72c, 72d, 284m, 285m, 288m, 9136(1) and 9436(1)]

2. FUEL AND UTILITIES LAPSE ESTIMATE

GPR-Lapse	$880,900

Governor/Legislature: Estimate the 2001-02 lapse amount from the agency's energy costs appropriation at $880,900. The agency is currently appropriated $1,866,900 GPR in 2001-02 for energy costs. The agency's energy costs appropriation is not actually reduced under the bill; however, the fiscal effect of the estimated lapse is included in the general fund condition statement.

3. UTILITY COSTS [LFB Paper 1100]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR-Lapse	$427,400	- $427,400	$0
SEG	$427,400	- $427,400	$0

Governor: Provide one-time funding of $427,400 SEG in 2002-03 from the utility public benefits fund to support utility costs for the Department. Create an annual appropriation for this purpose and prohibit DMA from encumbering moneys from the new appropriation after June 30, 2003. Include a nonstatutory provision specifying that of the moneys currently appropriated under the agency's GPR-funded energy costs appropriation, $427,400 GPR in 2002-03 could be encumbered or expended only upon the approval of the DOA Secretary. Increase GPR lapse estimates by $427,400 in 2002-03 to reflect the availability of SEG funding to support the agency's energy costs.

This item is part of a proposal to provide a one-time offset with SEG-funded public benefits moneys of a portion of several state agencies' GPR-funded energy costs during the current biennium. This proposal is summarized under "Administration."

Senate/Legislature: Delete provision.

4. ACROSS-THE-BOARD FUNDING REDUCTION [LFB Paper 1120]

GPR	- $63,300

Joint Finance: Reduce the Department's largest GPR state operations appropriation by $63,300. This amount represents a 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance

under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Delete provision.

Senate/Legislature: Include Joint Finance provision.

[Act 109 Section: 9259(7z)]

MISCELLANEOUS APPROPRIATIONS

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $209,800	- $11,000	- $5,500	- $226,300

Governor: Reduce the miscellaneous appropriation for costs associated with the relocation of capitol offices by $154,600 in 2001-02 and $55,200 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the capitol offices relocation appropriation by an additional $11,000. This amount represents an additional 1% reduction in this appropriation in 2002-03.

Assembly: Reduce the capitol offices relocation appropriation by an additional $5,500. This amount represents an additional 0.5% reduction in this appropriation in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9259(8)]

GPR-REV	- $9,500,000
GPR	- $6,100,000

2. OPERATING NOTES -- INTEREST COST ESTIMATE

Governor/Legislature: Decrease funding by $6,100,000 in 2002-03 for the estimated interest costs on operating notes. Total funding in 2002-03 would be $7,100,000. DOA anticipates operating notes of $500 million in 2002-03, which is $100 million lower than was previously projected. The reestimate is primarily the result of reductions in shared revenue payments under the bill. In 2001-02, $800 million in operating notes were issued. In addition, reestimate general fund interest earnings by -$5.2 million in 2001-02 and -$4.3 million in 2002-03.

[Act 109 Section: 9259(8)]

3. CAPITOL OFFICES RELOCATION APPROPRIATION

GPR	- $2,652,000

Joint Finance/Legislature: Reduce the capitol offices relocation appropriation by $2,652,000 in 2001-02 to reflect the transfer of that amount of funds to a new appropriation under the Legislature (the offsetting increase is shown under "Legislature").

[Act 109 Section: 9259(8)]

4. SUPPLEMENTAL TITLE FEE MATCHING APPROPRIATION [LFB Paper 1208]

	Governor	JFC/Legislature (Chg. to Gov)	Net Change
SEG-REV	- $555,000	- $62,200	- $617,200
GPR	- $555,000	- $62,200	- $617,200

Governor: Change the supplemental title fee matching GPR sum sufficient appropriation formula to reduce the amounts transferred to the nonpoint account of the environmental fund by $555,000 annually. Under current law, the Secretary of Transportation must certify by October 1 each year to the Secretary of Administration the amount of automobile title transfer fees collected during the previous fiscal year, for the purpose of determining the amounts to be transferred to the nonpoint account. The effect of the provision is to transfer $555,000 less annually than what is certified to the nonpoint account of the environmental fund beginning in 2002-03.

Joint Finance/Legislature: Reestimate the supplemental title fee matching GPR sum sufficient appropriation at $10,940,600 (rather than $11,002,800) in 2001-02 to reflect the actual

amount transferred. The funds are deposited to the segregated nonpoint account of the environmental fund.

[Act 109 Section: 58]

NATURAL RESOURCES

1. ACROSS-THE-BOARD BUDGET REDUCTIONS

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Veto (Chg. to Leg)	Net Change
GPR	- $4,311,200	- $457,900	- $228,900	- $305,100	- $5,303,100

Governor: Reduce the following GPR appropriations by a total of $1,787,400 in 2001-02 and $2,523,800 in 2002-03. These amounts represent 3.5% of total Act 16 GPR appropriations in 2001-02 and 5.0% in 2002-03 (excluding debt service). However, the percentage reduction in individual GPR appropriations varies from these amounts.

	Reduction Amount	
	2001-02	2002-03
State Park Operations	-$207,400	-$288,800
Natural Heritage Inventory Program	-8,800	-12,500
Endangered Resources Operations	-17,500	-25,000
Lands Division Operations	-21,400	-30,600
Motor Vehicle Air Emission Inspection	-2,400	-3,400
Air and Waste Division Operations	-149,300	-176,100
Enforcement & Science Division Operations	-170,400	-303,000
Great Lakes Remedial Action	-5,300	-7,500
Water Division Operations	-598,400	-854,900
Nonpoint Source Grants	-30,900	-44,200
Local Water Quality Planning Aids	-9,900	-14,200
Resource Maintenance and Development	-44,700	-58,200
Facilities Acquisition, Development and Maintenance	-6,400	-9,100
State Park, Forest, and Riverway Roads	-159,400	-181,500
Administration & Technology Division Operations	-270,500	-392,400
Customer Assistance & External Relations Operations	-84,700	-122,400
Total	-$1,787,400	-$2,523,800

Joint Finance: Delete the reductions to the state park operations and state park, forest, and riverway roads appropriations. Instead, increase the Water Division operations reduction by a corresponding amount ($366,800 in 2001-02 and $470,300 in 2002-03) to maintain the total reduction recommended by the Governor.

In addition, reduce the Department's largest GPR state operations appropriation (Water Division operations) by an additional $457,900. This amount represents an additional 1% reduction in the agency's state operations appropriation in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

	Reduction Amount	
	2001-02	2002-03
Natural Heritage Inventory Program	-$8,800	-$12,500
Endangered Resources Operations	-17,500	-25,000
Lands Division Operations	-21,400	-30,600
Motor Vehicle Air Emission Inspection	-2,400	-3,400
Air and Waste Division Operations	-149,300	-176,100
Enforcement & Science Division Operations	-170,400	-303,000
Great Lakes Remedial Action	-5,300	-7,500
Water Division Operations	-965,200	-2,012,000
Nonpoint Source Grants	-30,900	-44,200
Local Water Quality Planning Aids	-9,900	-14,200
Resource Maintenance and Development	-44,700	-58,200
Facilities Acquisition, Development and Maintenance	-6,400	-9,100
Administration & Technology Division Operations	-270,500	-392,400
Customer Assistance & External Relations Operations	-84,700	-122,400
Total	-$1,787,400	-$3,210,600

Assembly: Reduce the Department's largest GPR state operations appropriation by an additional $228,900. This amount represents an additional 0.5% reduction in the agency's GPR state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision. The reductions under the enrolled bill would be as follows (DNR could seek the reallocation of up to $686,800 in 2002-03 from the Water Division to other sum certain state operations appropriations):

Veto by Governor [B-12]: The Governor's veto message states that his partial veto would delete an additional $305,100 in 2002-03 from this appropriation by crossing out the reduction of $58,200 and, instead, writing in a reduction of $363,300, a figure $305,100 greater than that included in the enrolled bill. Further, the Governor requests that the DOA Secretary not allot these funds. This would increase the total GPR reduction for 2002-03 to $3,515,700.

[Act 109 Sections: 36 and 9237(22) thru (35)]

[Act 109 Vetoed Section: 9237(31)]

2. NONPOINT ACCOUNT [LFB Paper 1121]

GPR-REV	$500,500
SEG-Transfer	500,500
SEG	- $506,300

Governor/Legislature: Transfer $432,500 in 2001-02 and $68,000 in 2002-03 to the general fund from the segregated nonpoint account of the environmental fund. In addition, reduce the following DNR SEG appropriations by a total of $133,100 in 2001-02 and $373,200 in 2002-03.

	2001-02	2002-03
Water Division Operations	$9,800	$19,500
Trading Water Pollution Credits	1,300	2,500
Nonpoint Source Contracts	0	81,700
Total Maximum Daily Load Operations	10,600	23,800
Nonpoint Administration	15,600	66,300
Lake and River Grants	3,800	7,600
Urban Nonpoint and Municipal Flood Grants	50,500	101,000
Administration and Technology Operations	37,000	63,200
Customer Assistance and External Relations	4,500	7,600
Total	$133,100	$373,200

[Act 109 Sections: 9237(1) thru (10),(12),(13) &(16) thru (18)]

3. ENVIRONMENTAL MANAGEMENT ACCOUNT [LFB Paper 1121]

GPR-REV	$981,900
SEG-Transfer	981,900
SEG	- $610,300

Governor/Legislature: Transfer $404,300 in 2001-02 and $577,600 in 2002-03 to the general fund from the environmental management account of the environment fund (including $251,300 in 2001-02 and $359,000 in 2002-03 from the account balance and $153,000 in 2001-02 and $218,600 in 2002-03 from the Department's state-funded environmental response and cleanup SEG continuing appropriation). Further, reduce the following SEG appropriations from the environmental management account of the environmental fund by a total of $251,300 in 2001-02 and $359,000 in 2002-03.

	2001-02	2002-03
Enforcement and Science operations	$39,800	$56,900
Water operations	77,300	110,400
Administration and Technology operations	115,500	165,000
Customer Service & External Relations operations	18,700	26,700
Total	$251,300	$359,000

[Act 109 Sections: 9237(11),(12)&(16) thru (18)]

4. PETROLEUM INSPECTION FUND [LFB Paper 1121]

GPR-REV	$4,300
SEG-Transfer	4,300
SEG	- $4,300

Governor/Legislature: Reduce the mobile source air pollution administration appropriation by $1,800 SEG in 2001-02 and $2,500 SEG in 2002-03 from the petroleum inspection fund. Further, transfer $1,800 SEG in 2001-02 and $2,500 SEG in 2002-03 from the petroleum inspection fund to the general fund.

[Act 109 Sections: 9237(15)&(20)]

5. GPR-SUPPORTED CONSERVATION WARDENS [LFB Paper 1201]

	Funding	Positions
GPR	- $1,821,400	- 13.00
SEG	1,821,400	13.00
Total	$0	0.00

Joint Finance/Legislature: Transfer $910,700 annually and 13.0 conservation warden positions from GPR to the fish and wildlife account of the conservation fund.

Positions funded with conservation fund SEG have the effect of allocating 1.0 FTE per year to purposes associated with the account that provides the funding. Department financial records and law enforcement task timesheets indicate that for fiscal year 2000-01, at least 13.0 GPR-supported FTE were devoted to fish and wildlife enforcement efforts.

[Act 109 Sections: 9237(26g)&(26h)]

6. CHIEF WARDEN

	Legislature		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $86,200	- 1.00	$0	1.00	- $86,200	0.00

Assembly: Delete $86,200 GPR and 1.0 unclassified GPR position in 2002-03. The position is the currently vacant administrator for the Division of Enforcement and Science. Further, include the provisions of AB 300 to require DNR to designate a chief warden. Specify that the chief warden would be required to direct, supervise, and control conservation wardens in the performance of their statutorily required duties. Require the chief warden to designate a person as an internal affairs officer to investigate complaints against conservation wardens when an investigation is determined by the chief warden to be necessary, and to designate a complaint officer who would intervene and work with citizens to resolve complaints against conservation wardens.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-9]: Delete the provisions, including the proposed elimination of 1.0 unclassified GPR position in 2002-03. However, the reduction of $86,200 GPR in 2002-03 is maintained (the Governor's veto message requests DNR to reallocate existing funds to maintain the unclassified division administrator position).

[Act 109 Section: 9237(37g)]

[Act 109 Vetoed Sections: 72L, 362s and 9237(37g)]

7. CHRONIC WASTING DISEASE TESTING

Senate: Allow DNR to expend up to $1,000,000 in fish and wildlife SEG from the existing wildlife damage abatement program continuing appropriation to conduct tests for chronic wasting disease (CWD) in deer and elk found in the wild and in captive cervids.

Provide a first priority for these testing funds. Then, as under current law, remaining funds would be used in the following priority: (1) reimburse county administration expenses associated with the wildlife damage abatement program; (2) provide wildlife damage abatement assistance; (3) pay claims under the wildlife damage program; and (4) pay for costs associated with the venison processing donation program. If funds were insufficient to meet a particular priority, all claims within that priority would be prorated, and subsequent priorities would not be funded in that fiscal year.

A surcharge is added to most resident and nonresident hunting licenses to fund wildlife damage program activities. A $1 surcharge is added to both resident and nonresident deer, Class A bear licenses, Class B bear licenses, archer, turkey, annual small game, and sports licenses. In addition, a $1 surcharge is added to nonresident five day small game and fur-bearing animal hunting licenses. A $2 surcharge is included for resident and nonresident

conservation patron licenses, and revenues from the sale of bonus deer permits ($12 resident and $20 nonresident) is used to fund wildlife damage program activities as well. Under current law, the program is anticipated to have an unencumbered balance in excess of $2.5 million as of June 30, 2003.

Conference Committee/Legislature: This item was addressed separately by the Legislature in 2001 Act 108 relating to chronic wasting disease.

8. SHOOTING DISEASED WILDLIFE FROM ROADWAY

Senate: Allow DNR to issue a permit or license that would authorize state and federal employees acting within the scope of their employment to shoot wild animals from a vehicle or roadway for the purpose of testing for disease, or the removal of diseased wild animals.

Conference Committee/Legislature: This item was addressed separately by the Legislature in 2001 Act 108 relating to chronic wasting disease.

9. FEEDING WILD ANIMALS

Assembly: Direct DNR to promulgate rules to regulate the recreational and supplemental feeding of wild animals for purposes other than hunting. The Department currently regulates the feeding of deer for hunting purposes.

Senate: Delete provision.

Conference Committee/Legislature: This item was addressed separately by the Legislature in 2001 Act 108 relating to chronic wasting disease.

10. STEWARDSHIP BONDING

Assembly: Reduce the bonding authorization under the Warren Knowles-Gaylord Nelson Stewardship 2000 Program to $372 million. Specify that $35 million in bonding authority would be available annually beginning in 2002-03 through 2009-10. Of that amount, $23.5 million would be available for the land acquisition subprogram and $11.5 million would be available for property development and local assistance subprogram. GPR debt service payments would be expected to decline by $500,000 in 2002-03. Under current law, $46 million is available in 2001-02 ($34.5 million for land acquisition and $11.5 million for property development and local assistance) and $60 million in bonding will be available annually beginning in 2002-03 ($45

million for land acquisition and $15 million for property development and local assistance) under the stewardship program.

Senate/Legislature: Delete provision.

11. STEWARDSHIP EARMARKED PROJECTS

Joint Finance: Require DNR to provide funding for the following projects from the Warren Knowles-Gaylord Nelson Stewardship 2000 Program:

a. $500,000 from either the land acquisition or the property development and local assistance subprogram to the Wisconsin Humane Society in Milwaukee for the development of an outdoor wildlife rehabilitation center.

b. $250,000 from the land acquisition subprogram to acquire conservation easements along the Plover River in Marathon and Portage Counties.

Senate/Legislature: Modify the Joint Finance provision to delete the enumeration under "a." above.

Veto by Governor [B-11]: Delete provision.

[Act 109 Vetoed Section: 72p]

12. REQUIRED APPRAISALS FOR STEWARDSHIP GRANTS [LFB Paper 1204]

Joint Finance/Legislature: Modify the statutory requirement under s. 23.0917(7)(e) that requires applicants to submit two appraisals for acquisition projects estimated by DNR to exceed $200,000 to require grant applicants to pay for and submit one appraisal, and require DNR to independently obtain an additional appraisal, separate from any submitted by the applicant for applicants who are determined to be eligible for a grant. Allow DNR to require a third appraisal from the applicant, if necessary. However, specify that any additional appraisal required would be considered an eligible expense under the grant program. (DNR would pay up to 50% of the cost for any additional appraisals required, as under current law.)

Under current law, applicants for local assistance grants from the Warren Knowles-Gaylord Nelson Stewardship 2000 program must submit two appraisals if DNR determines the fair market value of the land exceeds $200,000. Appraisal costs are reimbursed at up to 50% when DNR awards a stewardship grant. However, in an October, 2000 evaluation, the Legislative Audit Bureau recommended, and DNR concurred, that the Department should independently obtain an appraisal separate from any appraisal submitted by grant applicants

for land purchases that exceed $200,000. This provision would allow the recommendation to be implemented while generally limiting state costs to funding one appraisal (rather than two under current law).

[Act 109 Section: 72k]

13. STEWARDSHIP PROGRAM AUDIT

Assembly: Request the Joint Legislative Audit Committee to direct the Legislative Audit Bureau to review DNR land acquisition practices under the Warren Knowles-Gaylord Nelson Stewardship 2000 Program. Specify that the audit be completed by March 30, 2003. LAB would consider the following issues:

a. The purchase price paid by DNR for property compared to prices paid for comparable property in a given geographical area;

b. The annual aids in lieu of property taxes payment paid by the state for lands purchased by DNR compared to property tax payments previously received by local government; and

c. The difference between the appraised and the assessed value of land acquired by DNR.

Senate/Legislature: Delete provision.

14. SALE OF LAND BY DNR

Joint Finance/Legislature: Prohibit DNR from entering into a contract to sell or exchange state-owned land valued in excess of $75,000 without first notifying the Joint Committee on Finance of the proposed transaction. Specify that if the Committee wishes to review the sale or exchange, the Committee must notify DNR within 14 working days after receiving the notice that it has scheduled a meeting to review the proposal. The Department may then make the sale or exchange only with the approval of the Committee. In order to approve the sale or exchange, the Committee must determine that the amount, or the value of the land, received by DNR under the transaction adequately reimburses the state for its costs in acquiring and developing the land.

Veto by Governor [B-10]: Delete provision.

[Act 109 Vetoed Section: 72m]

15. COASTER BROOK TROUT REINTRODUCTION

SEG	$90,000

Joint Finance/Legislature: Provide $90,000 SEG in 2002-03 from the fish and wildlife account of the conservation fund in an annual appropriation for DNR costs relating to the study and reintroduction of the coaster brook trout.

Under the 2001-03 biennial budget bill as passed by the Legislature, funding of $20,000 PR in 2001-02 and $150,000 PR from tribal gaming revenues in 2002-03 would have been provided for the reintroduction of the coaster brook trout. The Governor item vetoed $130,000 PR in 2002-03 in 2001 Act 16, leaving $20,000 PR annually for this purpose. This provision would provide a total of $20,000 in 2001-02 and $110,000 in 2002-03 for the program.

[Act 109 Sections: 9137(1x) and 9237(27x)]

16. STURGEON SPEARING

Assembly: Include the provisions of AB 251, as amended by Senate Amendment 1, that would specify that the non-issuance period for a sturgeon spearing license begin on the November 1 preceding the open season and end on the last day of the season. In addition, it would exempt residents who turn 14 years old during the non-issuance period or who are in the armed forces outside the state and are on furlough or leave from the non-issuance period. Further, the bill would specify that the change in the non-issuance period become effective on September 1, 2002. [It should be noted that 2001 Act 77 (AB 251) was signed by the Governor on April 15, 2002, and includes the above provisions.]

Further, include the provisions of SB 317, as amended by Senate Amendment 1. The bill would increase the fee for a sturgeon spearing license from $10 to $20 for residents and $50 for nonresidents. In addition, it would eliminate the requirement that a person must hold a resident or nonresident fishing license to be issued a sturgeon spearing license. Further, the bill removes the privileges of the sturgeon spearing license from any holder of a resident or nonresident conservation patron license. It would create a continuing appropriation and require DNR to use all revenues from the sale of sturgeon spearing licenses for the cost of administering license issuance; for assessing and managing the lake sturgeon stock and fishery in an area that consists of Lake Winnebago and its adjoining lakes, portions of the Fox River and its tributaries, and portions of the Wolf River and its tributaries; and for improving and maintaining the lake sturgeon habitat in that area. The bill also would delete obsolete references to "rock" sturgeon in the statutes while maintaining "lake" sturgeon references. Finally, the bill would specify that these changes would become effective March 10, 2003.

Under current law, a sturgeon spearing license may not be issued during the open season for spearing rock or lake sturgeon (the non-issuance period), which under DNR administrative rule begins on the second Saturday in February and continues for up to 16 consecutive days.

The fee for a sturgeon spearing license is currently $10 for residents or non-residents; however, license holders are required to purchase a resident or nonresident fishing license in addition to the sturgeon spearing license. In addition, under current law, a resident or nonresident conservation patron license confers on the holder of the license the privileges of most of the state's hunting, fishing, and trapping licenses, including the sturgeon spearing license.

The fiscal estimate submitted by DNR indicate that increased costs would be incurred for providing public information regarding the changes and for programming changes to the Automated License Issuance System (ALIS) as a result of these provisions. However, as no additional funding is provided, DNR would be required to absorb these costs. Additional revenue as a result of the increased fees and the elimination of the sturgeon spearing privilege as part of the conservation patron license is estimated to be approximately $175,000 SEG annually beginning with the 2003 license year (April 2003 through March 2004).

Senate: Delete provision.

Conference Committee/Legislature: Include the Assembly provisions as reconciled with Act 77.

[Act 109 Sections: 36gb, 84nb thru 84no, 84ra, 84rk thru 84rLm, 84 ru, 84rv, 88f, 88o, 9337(1zo) and 9437(1zo)]

17. FISHING SEASON CLOSURE DATE

Assembly: Require DNR to set the closing date of any Wisconsin fishing season (on inland or outlying waters) to fall on a Sunday. Under DNR administrative rule, the general game-fishing season currently closes on March 1.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-15]: Delete provision.

[Act 109 Vetoed Section: 84mg]

18. FISH SHANTY REMOVAL DATE

Assembly: Require DNR to set the date for vehicle, tent and fish shanty removal from the ice to fall on a Sunday. Under DNR administrative rule, fish shanty removal must take place by March 15.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-15]: Delete provision.

[Act 109 Vetoed Section: 84r]

19. CRANE CROP DAMAGE STUDY

PR	$40,000

Joint Finance/Legislature: Provide an additional $10,000 PR in 2001-02 and $30,000 PR in 2002-03 from tribal gaming revenues for a study of the prevention of Sandhill crane crop damage. Funding would be one-time in the 2001-03 biennium only.

One-time funding of $55,000 PR in 1999-00 and $60,000 PR in 2000-01 was provided from tribal gaming revenue allocations for the cooperative crop damage study between the University of Wisconsin and the International Crane Foundation in 1999 Act 9 (the 1999-01 biennial budget). An additional $30,000 PR was provided in each year of the biennium on a one-time basis in the 2001-03 biennial budget as it passed the Legislature. The Governor item vetoed 2001 Act 16, and reduced funding to $20,000 PR in 2001-02 only.

[Act 109 Section: 36b, 1160m, 9237(36c)]

20. ELK HUNTING

Assembly: Authorize the DNR to establish an elk hunting season, and to otherwise regulate the hunting of elk in this state. Expand the definition of "game animals" beyond the current definition that includes deer, moose, elk, bear, rabbits, squirrels, fox and raccoon, to include "any other wild animal specified by the department." For each season in which an elk hunt is authorized, nonresidents would be eligible to receive 5% of elk hunting licenses remaining after 100 tags were provided to residents. Require individuals to pay a non-refundable processing fee of $3 (including a 25¢ issuing fee) to apply to purchase an elk hunting license. Departmental revenues from the $3 processing fee would be deposited to the fish and wildlife account. Authorize DNR to select at random who would be issued a license each year if the number of applicants exceeds the number of licenses available. A hunter must have successfully completed an elk hunter education course (either in Wisconsin or in another state) to be issued a license.

Require DNR to establish an elk hunter education course, and prohibit DNR from assessing a fee for this course. Direct that the hunter education course include all of the

following: (a) history and recovery of elk in both Wisconsin and the United States; (b) elk census and population estimation methods used in this state; (c) elk biology and disease prevention; (d) elk hunting techniques and hunter ethics; (e) elk hunting zones; (f) rules promulgated by DNR concerning elk hunting; and (g) Native American hunting. Individuals that complete this course would receive a certificate of accomplishment from the DNR.

Permit DNR to limit the number of elk hunters and elk harvested in any area of the state. Allow DNR to establish by administrative rule closed zones where elk hunting is prohibited.

Specify that for the first five hunting seasons during which elk tags are available to residents, one tag would be provided to the Rocky Mountain Elk Foundation if the Foundation applies for and pays the fees required for that license. Allow the Foundation to conduct a raffle in which the tag is offered as a prize to raise money for elk management in the state of Wisconsin. Direct the Foundation to transfer the license to the winner only if that person is qualified to receive and use a resident elk hunting license. If the Foundation fails to transfer the tag as specified, the license would become invalid, and DNR may issue another resident elk hunting license.

Fees for an elk hunting license would be $41 for residents and $201 for nonresidents (including a 75¢ issuing fee and a $1 wildlife damage surcharge). Make elk damage eligible for the wildlife damage claims and abatement program if DNR has promulgated an administrative rule that establishes a season for hunting elk. A replacement elk hunting license would cost $13. Carcass and back tags (which must be displayed while hunting) would be issued to each person who purchased an elk hunting license. Create an option where any applicant for an elk hunting license may, in addition to paying the fee charged for the license, elect to make a voluntary contribution of at least $1 to be used for elk research. Create a continuing appropriation where all monies received from the sale of elk hunting licenses and from voluntary contributions would be used for administering elk hunting licenses, for elk management and research activities, and for the elk hunter education program.

Allow the hunting of elk in state parks if DNR has authorized by rule elk hunting in the state park. Permit the removal of lawfully killed elk to an adjoining state, governed by the same requirements as for transportation of deer. Require any person who kills an elk to immediately attach a current validated elk carcass tag to the ear or antler of the elk. The elk must be registered in the manner required by the DNR. The carcass tag may be removed when the elk is butchered, but the person who obtained the elk must retain all tags until the meat is consumed (unless the meat is received as a gift).

An individual could only be issued an elk hunting license once during his or her lifetime, and the license could be used during only one elk hunting season. The license would authorize the hunting of elk by bow and arrow or by firearm. The license would also authorize a state resident who is eligible for a crossbow permit under current law due to physical disabilities to hunt elk. Shining elk while hunting or possessing weapons would be prohibited. A warden

would be permitted to kill a dog found running, injuring, causing injury to, or killing an elk if immediate action is necessary to protect the elk from injury or death.

No person would be allowed to have possession or control of the green head or green skin of an elk beginning 30 days after the close of the elk hunting season until the opening of the following season. In addition, unless authorized by the DNR, no person would at any time be allowed to have possession or control of an elk head in the velvet, or an elk skin in the red, blue, or spotted coat. These provisions would not apply to the head and skin of any elk lawfully killed, when severed from the rest of the carcass. Any elk from which the antlers had been removed, broken, shed, or altered so as to make determination of the legality of the elk impossible would be an illegal elk if the elk was taken during an open season for hunting only antlered elk or during an open season for hunting antlerless elk.

For hunting elk without a valid license, possessing an elk that did not have a carcass tag attached, or for possessing an elk during the closed season, a fine would be levied of not less than $1,000 nor more than $15,000, or imprisonment for not more than six months or both for the first violation. Subsequent violations would be subject to a fine of not more than $20,000 or imprisonment of not more than one year or both. In addition, the court would be required to revoke all hunting and trapping approvals issued to the violator, and prohibit the issuance of any new hunting or trapping approvals to this person for five years. Any other violation relating to elk hunting or registration would be subject to a forfeiture of not more than $5,000. In addition, allow the DNR to bring a civil action in the name of the state for the recovery of damages of not less than $2,000 against any person killing, wounding, catching, taking, trapping or possessing elk in violation of state law.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-14]: Delete the modified definition of game animals, which would have included any wild animal specified by the Department.

[Act 109 Section: 36am, 84j thru 84kmd, 84mf, 84mh thru 84naf, 84noh thru 84px, 84rb thru 84rj, 84rm thru 84rt, 84sb thru 84st, 86g, 86r, 88b, 88e, 88g, 88m, 88n and 88p]

[Act 109 Vetoed Section: 84km]

21. HUNTER SAFETY REIMBURSEMENT

Assembly: Authorize DNR to provide up to $5 per student enrolled in a hunter safety course to the instructors of the course for allowable costs (prior to the instructor incurring the costs). Specify that if the expenses incurred by the instructor are either not authorized by DNR or

do not exceed the funds provided by DNR, the instructor shall return all unused funds or unauthorized amounts to the Department, along with the course roster, upon completion of the course. Under current law, DNR may only reimburse instructors for allowable costs incurred up to $5 per student.

Senate/Legislature: Delete provision.

22. FUNDING FOR ACT 16 VETOED PROVISIONS WITHIN THE CONSERVATION FUND [LFB Paper 1203]

SEG	- $430,000

Joint Finance/Legislature: Delete $300,000 in forestry account SEG and $130,000 in water resources account SEG in 2001-02 related to item vetoes in 2001 Act 16.

As part of his partial vetoes in the 2001-03 biennial budget, the Governor deleted legislative earmarks affecting appropriations from the conservation fund. However, increased funding levels relating to those earmarks were not deleted from the corresponding appropriations. One vetoed provision would have required DNR to provide $300,000 SEG from the forestry account to the Great Lakes Forestry Museum to develop a facility in Rice Lake. Although this earmark was vetoed by the Governor, the $300,000 appropriation in 2001-02 remained in the continuing appropriation for aids to certain non-profit conservation organizations.

The other vetoed provisions would have required DNR to provide $80,000 SEG to the Village of Whiting in Portage County for the construction of a handicapped-accessible recreational pier on the Plover River and $50,000 SEG to the Wausau Kayak/Canoe Corporation, a non-profit organization, to upgrade the whitewater course on the Wisconsin River in Wausau. Both designations were funded by increasing an appropriation from the water resources account for recreational boating projects.

[Act 109 Sections: 9237(28k) &(28L)]

23. FORESTRY FUNDING RESTORATION [LFB Paper 1206]

GPR	$305,100

Joint Finance: Provide $4 million forestry SEG in 2002-03 only, to replace an equal amount of GPR for stewardship debt service payments (as included in the 2001-03 biennial budget as passed by the Legislature).

Assembly: Include the provisions of AB 790 to restore vetoed funding of $66,679,600 (including $63.0 million SEG, $0.3 million GPR, $1.6 million PR and $1.8 million FED) and 661.32 positions to the appropriate DNR appropriations to reestablish forestry functions in DNR

at the level that would have been provided to the Department of Forestry under the 2001-03 biennial budget as passed by the Legislature.

DNR forestry functions were left largely unfunded as a result of the Governor's partial veto of 2001 Act 16, (the 2001-03 biennial budget bill) related to the creation of a separate Department of Forestry. The Governor's partial veto deleted language that would have restructured DNR's Division of Forestry and shifted its functions to a new department. In addition, the veto deleted appropriations created in the bill during the second year of the biennium to provide funding for the activities of the new department.

Further, restore the provisions in the biennial budget bill as passed by the Legislature to allocate revenues from the per-seedling surcharge equally between the appropriation for forestry education curriculum development and the appropriation for forestry education for the public.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Provide $305,100 GPR in 2002-03 to restore vetoed funding for state forest road maintenance ($190,500) and for resource maintenance and development on state forests ($114,600). Further, restore the appropriate allotment of revenue from the seedling surcharge between the appropriations for forestry education curriculum development and public education. All remaining funding and staff included in the Joint Finance and Assembly provisions ($66,374,500 and 661.32 positions) were restored by the Joint Committee on Finance at its June 11, 2002, meeting under s. 13.10.

[Act 109 Sections: 84gn, 84gp and 9237(36vv)&(36vw)]

24. MANAGED FOREST LAW PROGRAM

SEG-REV	$300,000

Assembly: Allow any individual owning land enrolled in the Forest Crop Law (FCL) program to file a petition to convert their enrollment to the Managed Forest Law (MFL) program at any time. In addition, require anyone petitioning for entry of forestland under MFL or conversion from FCL to MFL to pay a $100 fee, unless the applicant submits a forest management plan that is approved by DNR (in which case the current $10 fee would be paid in order to cover the cost of recording the agreement). Applicants for additions to MFL would continue to pay the $10 fee for recording. Revenue from this fee would be deposited to the forestry account of the conservation fund, with $10 per application credited to the appropriation to pay recording fees.

The FCL and MFL programs are designed to encourage landowners to manage private forest lands for the production of future forest crops for commercial use through sound forestry practices. FCL was closed to new entries on January 1, 1986. MFL was created in 1985 Act 29,

and 1993 Act 131 authorized the conversion of certain land from FCL to MFL for a $100 fee. The conversion option was closed on January 1, 1998. During the time that the conversion option was available, 1,837 landowners elected to convert their enrollment from FCL to MFL. Under this provision, landowners with property enrolled under FCL would be able to convert to MFL without paying the $100 application fee, provided that they included a DNR-approved forest management plan with their application for conversion. While owners of land enrolled in FCL and MFL are both required to comply with DNR approved forestry practices, property owners with land enrolled in FCL must allow hunting and fishing on all of the designated land. Property owners with land enrolled in MFL have the option of closing a maximum of 80 contiguous acres to public access if an additional $1 per acre is paid for each acre closed to public access.

In calendar year 2000, DNR received 2,700 applications for entry of land into MFL. This number increased to over 3,200 in calendar year 2001. For each applicant, DNR is required to prepare a forestry management plan, if the applicant does not provide one to the Department. As the average cost of contracting with a private forester for a forest management plan is approximately $700 (or around $11 per acre), it may be expected that the majority of applicants for conversion to or entry into MFL will elect to pay the $100 fee and allow DNR to prepare the management plan. Based on recent application rates, perhaps $300,000 annually in increased revenue could be expected to the forestry account of the conservation fund from the $100 fee.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 35m, 233L thru 233p]

25. FOREST FIRE PROTECTION GRANT PROGRAM MATCH

Joint Finance/Legislature: Authorize local governments to meet the local match requirement for the forest fire protection grant program through the allocation of their 2% fire dues grant payment received from Commerce. Provide an effective date of July 1, 2002, and a repeal date of July 1, 2004. The forest fire protection grant program provides grants (from forestry account SEG and federal funds) to local governments for up to 50% of the cost of certain fire fighting clothing and equipment if the local governments enter into written agreements to assist DNR in the suppression of forest fires when requested. Commerce distributes fire dues revenues to local governments that maintain fire departments that meet specific criteria. Any insurer doing a fire insurance business in the state must pay fire department dues to the state equal to 2% of the amount of all Wisconsin based premiums paid to the company during the preceding calendar year for insurance against loss by fire, including insurance on property exempt from taxation.

[Act 109 Sections: 84g, 84gh and 9437(1c)]

26. COUNCIL ON FORESTRY

Assembly: Include the provisions of AB 788 as amended by AA 1, which would create a 19-member council on forestry and designate its membership as follows: the chief forester or their designee; one member of the Senate, appointed by the President of the Senate; one member of the Senate, appointed by the Senate Minority Leader; one member of the Assembly, appointed by the Speaker of the Assembly; one member of the Assembly, appointed by the Assembly Minority Leader; one member who represents the interests of a forest products company that owns and manages large tracts of private forest land that supply raw materials to the forest products industry; one member who represents the interests of owners of non-industrial, private forest land who manage the land to produce ecological, economic, and social benefits; one member who represents the interests of counties that have county forests within their boundaries; one member who represents the interests of the paper and pulp industry; one member who represents the interests of the lumber industry; one member who represents the interests of nonprofit conservation organizations whose purposes include the conservation and use of forest resources; one member who is a forester who engages in the practice of providing consultation services on forestry issues; one member who represents the interests of schools of forestry within the state that have curricula in the management of forest resources that are accredited by the Society of American Foresters; one member who represents the interests of persons who engage in the practice of conservation education; one member who represents the interests of persons who are members of labor unions that are affiliated with the forestry industry; one member who represents the interests of persons who are engaged in the practice of urban an community forestry; one member who represents the interests of persons who are members of the Society of American Foresters; one member who represents the interests of persons who are members of an organization of timber producers; and one member who represents the interests of persons who are engaged in an industry that uses secondary wood. Members of the Senate and Assembly would be appointed in the same manner as members of standing committees are appointed. Remaining members (except for the chief forester or their designee) would be nominated by the Governor, and with the advice and consent of the Senate appointed to serve a five-year term. Of the members nominated by the Governor, four would serve for terms expiring on July 1, 2005; three members would serve for terms expiring on July 1, 2006; four would serve for terms expiring on July 1, 2007; and three members would serve for terms expiring on July 1, 2008. Remaining and subsequent members would each serve a five-year term. The Governor would appoint a chairperson from among the membership of the council each year. The chairperson would then appoint the vice chairperson and secretary from among the membership of the council. The Council will meet four times each year, as well as on the call of the chairperson or the majority of its members. Council members would have overlapping terms of service.

Duties of the council would include advising the Governor, Legislature, DNR, Commerce, and other state agencies on forestry-related topics, including: the protection of forests from fire,

insects, and disease; the practice of sustainable forestry; reforestation and forestry genetics; the management and protection of urban forests; increasing the public's knowledge and awareness of forestry issues; forestry research; increasing the economic development of the forestry industry and employment in the forestry industry; the marketing and use of forest products; legislation that impacts the management of forest lands in the state; and staffing and funding needs for forestry programs conducted by the state.

In addition, require the council to prepare a biennial report on the status of the state's forest resources and forestry industry. Specify that the report include information on the magnitude, nature, and extent of forestry resources in the state; current use and benefits of forestry products in the state; projected future demand and benefits of forestry products; types of owners and forms of ownership that apply to state forest land, including reasons why people own forest land; evaluation of the success of existing initiatives that are offered to stimulate the development of forest resources; possible economic opportunities in the state that may result if improved forest product marketing occurs; recommendations for increasing the economic development of the forestry industry and employment; the effect of state and local government laws and policy on forest management and the location of markets for forest products; recommendations as to staffing and funding needs for forestry and related conservation programs that are conducted by the state; recommendations as to the need to increase public knowledge and awareness of forestry issues. The Council would submit this report no later than June 1 of each odd-numbered year for distribution to the Governor and to the appropriate standing committees of the Legislature. The first report should be submitted no later than June 1, 2005. Each report would cover the 24-month period ending on the December 31 immediately preceding the date of the report.

Further, specify that if DNR and the University of Wisconsin System enter into an agreement to create a faculty position in Madison for a forest landscape ecologist, DNR would be required to consult with the Council when determining the position's annual work plan.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [B-13]: Delete the authority of the President of the Senate, the Senate Minority Leader, the Speaker of the Assembly, and the Assembly Minority Leader to each appoint a member of the Council on Forestry. Further, delete the requirement that appointments be made with the advice and consent of the Senate. In addition, language specifying term length and the structure of staggered first terms is removed. As a result of the partial veto, the Governor has the authority to appoint 18 of the 19 members of the Council (including two members of the Assembly and two members of the Senate) without Senate confirmation. The 19th member would be the chief forester, or their designee. No term limits would apply to council members.

[Act 109 Sections: 14kr, 72h and 83s]

[Act 109 Vetoed Sections: 14kr and 9137(1v)]

27. WATER INTEGRATION TEAM

Assembly: Delete $435,200 GPR and 6.5 GPR positions in 2002-03 assigned to the water integration team. The water integration team supports the operations of regional and central offices and promotes the integration of watershed management, fisheries management habitat protection, and drinking water groundwater.

Senate/Legislature: Delete provision.

28. INVASIVE SPECIES

Assembly: Create an invasive species council in conjunction with DNR. Specify that the council consist of the following 12 members: the Secretaries of DNR, DOA, DATCP, Tourism, and DOT, or their designees, and seven other members appointed by the Governor, representing public and private interests that are affected by the presence of invasive species in the state, to serve five year terms. Of the members first appointed by the Governor to serve on the council, two members would serve for terms expiring on July 1, 2007, two members would serve for terms expiring on July 1, 2008, and three members would serve for terms expiring on July 1, 2009.

Council duties would include: making recommendations to DNR for a system for classifying invasive species, including criteria for each classification to be used, the allowed activities associated with each classification, criteria for determining priorities for controlling invasive species, and criteria for determining what action to take in response to each; conduct studies of issues related to controlling invasive species, including the effect of the state's pet industry and bait industry on the introduction and spread of invasive species, the acquisition of invasive species through mail order or internet sales, and any other issue as determined by the council.

Direct the council to create four subcommittees, one each to consider the subjects of education, research, regulation, and interagency coordination. The council may create additional subcommittees.

Direct DNR to establish a statewide program to control invasive species in the state. As part of the program, direct DNR to create and implement a statewide management plan, and encourage cooperation among state agencies and other entities to control invasive species. In addition, direct DNR to seek public and private funding for these purposes and require rules be promulgated to classify invasive species.

In promulgating rules, DNR would consider the recommendations of the invasive species council. Direct DNR to promulgate rules to establish a procedure to award cost-sharing grants to public and private entities for up to 50% of the costs of projects to control invasive species. Require DNR to establish criteria for determining eligible projects and eligible grant recipients. Specify that grant applicants would be allowed to use money, in-kind services, or a combination thereof to constitute their share of the 50% match. When establishing eligibility criteria, direct DNR to consider the recommendations of the invasive species council.

As part of the statewide management plan, direct DNR to periodically inspect boats, boating equipment, and boat trailers entering and leaving navigable waters and to educate boaters about the threat of invasive aquatic species. Volunteers or DNR employees may be used for these inspections.

Require DNR to submit a biennial report to the Legislature, the Governor, and the Council including all of the following: details of the administration of the invasive species program, including an assessment of progress made in controlling invasive species in the state; a description of funding expended under the program; and an assessment of the future needs of the program. Direct DNR to submit the report before July 1 of each even-numbered year, with the first report submitted no later than July 1, 2004. Each report would cover the 24-month period ending on the March 31 that immediately precedes the date of the report. In addition, direct DNR to submit an interim performance report to the Legislature, the Governor, and the Council on the progress made in controlling invasive species before July 1 of each odd-numbered year, with the first report submitted no later than July 1, 2005. Specify that each interim report cover the 12-month period ending the March 31 that immediately precedes the date of the interim report.

Allow the secretaries of DNR or DATCP to authorize individuals to plant or cultivate nuisance weeds for the purpose of controlled experimentation. Direct DNR to make a reasonable effort to implement control and quarantine methods on public lands as soon as practicable, employing the least environmentally harmful methods available that are effective. Expand DNR authority over purple loosestrife and multiflora rose control to include all nuisance weeds.

No additional funding would be provided to DNR for the cost-sharing grant program to control invasive species. Under 2001 Act 16 (the 2001-03 biennial budget), $300,000 SEG is provided annually from the water resources account of the conservation fund to begin a comprehensive program to manage invasive species. These funds are currently available for watercraft inspection for invasive plants, information and educational efforts relating to the transport of invasive species, monitoring of affected ecosystems, and bio-control of purple loosestrife using *Galerucella* beetles. Under this provision, funds could also be used for cost sharing grants.

Senate: Include the Assembly provision as technically modified to clarify the purpose of the water resources appropriation providing funding for lake and river management activities to also include expenditures related to the invasive species program. In addition, provide 2.0 positions from the water resources account of the conservation fund for a program director and a water resource management specialist for the statewide invasive species program. Funds provided under Act 16 would be used to support the two staff. Costs associated with the additional staff (including salary, fringe benefits and supplies) are estimated to be approximately $119,300 SEG annually beginning in 2002-03.

Conference Committee/Legislature: Include Assembly provision with the technical modification to clarify the purpose of the water resources appropriation providing funding for lake and river management activities, to also include expenditures related to the invasive species program.

[Act 109 Sections: 14j, 36fb, 72t thru 72xv, 88pg thru 88r and 9137(2fxq)]

29. FISH LAKE WATER LEVELS

Assembly: Earmark up to $200,000 SEG from the recreational boating project aids program for water quality and lake level improvements of the Fish, Crystal, and Mud Lakes in northwestern Dane County. Specify that funding would be earmarked for the project before percentages were applied to determine funding levels for inland waters and Great lakes projects. Funds would be expected to be used to install a water pumping and drainage system from Fish and Mud Lakes to the Wisconsin River, with a goal of lowering the water level of the lake. Funds from the recreational boating projects appropriation would be provided to Dane County. In order to receive the funding, Dane County would be required to provide an equal amount of matching funding and would be expected to do so in coordination with Columbia County, the Townships of Roxbury and West Point, and from the Crystal, Fish, and Mud Lakes lake districts.

The recreational boating project aids program is funded by a continuing appropriation at over $4.7 million in 2001-02 and $4.5 million in 2002-03 from the water resources account of the conservation fund. The main source of revenue to the water resources account is an annual transfer of motorboat fuel tax revenue.

Senate: Delete provision.

Conference Committee/Legislature: Include the Assembly provision as modified to specify that matching funds may come from (in addition to Dane County) Columbia County, the Towns of Roxbury and West Point, Fish, Mud, or Crystal Lake Districts, or other organizations.

[Act 109 Section: 9137(2x)]

30. FISH LADDERS

Senate: Delete the restriction prohibiting DNR from requiring dam owners to install fish ladders unless administrative rules have been promulgated regarding the practice and unless the state or federal government has implemented a program to provide cost-sharing grants to the owners of dams for the installation of fish ladders. The current requirement that DNR promulgate rules to specify the rights held by the public that affect the placement of fish ladders in navigable waters that are dammed would be retained (s. 31.02(4r)).

Conference Committee/Legislature: Delete provision.

31. SHORELAND ZONING VARIANCES

Assembly: Eliminate $136,400 and 1.0 attorney position in 2002-03. Prohibit the state from initiating or intervening in a civil action to challenge the granting of a shoreland zoning variance by a county board of adjustment or a city board of appeals relating to the provisions of a zoning ordinance that governs area, setbacks, frontage, height, bulk or density, if the variance has been approved by a two-thirds vote of the governing body of the county, city, village or town and by the County Board where the variance has been granted.

Senate/Legislature: Delete provision.

32. MOSQUITO CONTROL TESTING

Assembly: When authorizing a permit for the chemical treatment of water for the suppression of mosquito larvae in the cities of Brookfield and La Crosse, prohibit DNR from requiring, as a condition of a permit, that monitoring or additional testing be conducted as to the effectiveness or the impact of the treatment.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 369L]

33. WETLANDS EXEMPTIONS

Senate/Legislature: Modify statutory provisions relating to wetlands water quality exemptions for specified sites in Trempealeau and Dunn Counties (these provisions were found unconstitutional by the Trempealeau County Circuit Court as private and local laws included in the 1999-01 biennial budget). The Dunn County exemption would be deleted and the provisions of the Trempealeau County exemption would be made statewide, but limited to the selection of one site in Wisconsin as follows.

In addition to the current requirements that the site be less than 15 acres in size, zoned for industrial use and in the proximity of a manufacturing facility, this provision would expand the site requirement to allow the activity to be within the corporate limits of a village (in addition to a city under current law) on January 1, 1999 and expand the resolution requirement to allow the governing body of a village (in addition to a city as under current law) to adopt a resolution stating that the exemption is necessary to protect jobs that exist in the village on the date of the resolution or is necessary to promote job creation.

Further, require that: (a) the Governor select one activity that meets all these requirements from among any city or village seeking to be selected for the exemption that submits the required city or village resolution to the Governor before December 31, 2002; and (b) at least two acres of wetland be restored or created upstream from and within the same watershed as the site of the activity as mitigation for each acre of wetland affected by the activity. In addition, set the following requirements for the created or restored wetlands: (a) require that the wetland mitigation comply with DNR administrative rules regarding planning, site plans, construction, inspection, monitoring and financial assurances; (b) authorize any DNR agent or employee reasonable access to any and all parts of a mitigation project site and to enter any property to investigate the mitigation project; and (c) require the mitigation project to include the granting of a conservation easement to DNR to ensure that the restored or created wetland will not be substantially degraded by any subsequent owner or holder of interest in the property on which the wetland is located. Specify that at a minimum, the conservation easement must include any zone of vegetated upland adjacent to the wetland that DNR determines is adequate to filter runoff from entering the restored or created wetland and require DNR to modify or release the conservation easement if the easement would be released under current law requirements for other wetland mitigation sites.

A site selected by meeting these requirements would be considered in compliance with state water quality standards that are applicable to wetlands and to be exempt from any state fees, requirements, restrictions, permits, authorizations, procedures or penalties specified under statutory provisions, rules, orders and ordinances dealing with deleterious substances, navigable waters, water or sewage, pollution discharge elimination, solid waste, hazardous waste, remedial action or other general environmental provisions.

Veto by Governor [B-7]: Delete provision.

[Act 109 Vetoed Sections: 150c, 150m, 259h and 369kb thru 369ks]

34. STRUCTURES IN SHORELAND SETBACK AREA

Senate: Delete the current requirement that counties must grant special zoning permission for the construction or placement of any structure on property in a shoreland setback area that meets all of the following requirements: (a) the part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark; (b) the total floor area of all of the structures (excluding boathouses) in the shoreland setback area of the property do not exceed 200 square feet; (c) the structure has no sides or has open or screened sides; and (d) the county approves a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

Conference Committee/Legislature: Delete provision.

35. PERMIT REQUIREMENT FOR SOLID PIERS

Senate: Prohibit a person from building or placing a solid pier (one that prevents the free movement of water beneath the pier, including a pier that has a rock-filled crib or similar device as a foundation) extending beyond the ordinary high-water mark of a navigable water unless DNR issues a specific permit for the solid pier. Allow DNR, after meeting current public hearing and notice requirements, to grant a riparian owner a permit to place or build for the owner's use, a solid pier extending beyond the ordinary high-water mark of any navigable water only if the solid pier: (a) does not materially obstruct navigation; (b) does not reduce the effective flood flow capacity of a stream; (c) is not detrimental to the public interest; and (d) is used in association with a marina, boat livery or harbor of refuge to which the riparian owner provides public access without restriction, other than reasonable mooring or anchoring fees. However, allow the riparian owner of any currently permitted solid pier extending beyond the ordinary high-water mark that was placed or constructed prior to the effective date of the bill, to repair and maintain the solid pier if the cost of the repair or maintenance does not exceed 50% of the equalized assessed value of the solid pier at the time of the repair or maintenance, or if the solid pier is not subject to assessment, 50% of its current fair market value.

Conference Committee/Legislature: Delete provision.

36. SILVER LAKE HIGH WATER MARK

Senate: Delete the current statutory specification that the ordinary high-water mark of Big Silver Lake in the town of Marion in Waushara County be set by DNR at 867 feet above mean

sea level as determined under U.S. geological survey standards. The measure of the ordinary high water mark (which determines public ownership and rights in navigable waters) of Big Silver Lake would instead be determined as specified by DNR administrative rule, as other high water marks currently are determined.

Conference Committee/Legislature: Delete provision.

37. PRIORITY FUNDING FOR CERTAIN NOTICE OF DISCHARGE SITES

Senate/Legislature: Require DNR to provide cost-share funding in 2002-03 to a landowner who received a notice of discharge (NOD), entered into a cost-share agreement with the Department of Agriculture, Trade and Consumer Protection (DATCP) for a grant (prior to the 1999-01 biennial budget act, DATCP could provide grants directly to individuals who had received an NOD), and complied with the cost-share agreement, but did not receive the grant. Specify that the payment equal the amount the landowner would have been entitled under the cost-share agreement with DATCP, and prohibit DNR from requiring a landowner to file an application to receive payment under this provision.

[Act 109 Section: 369m]

38. OUTDOOR RESOURCES ACTION PROGRAM RESIDUAL BONDING AUTHORITY [LFB Paper 1202]

BR	- $1,789,700

Joint Finance/Legislature: Eliminate residual general obligation bonding authority in the Outdoor Resources Action Program (ORAP) of $1,789,675. ORAP provided water pollution abatement grants for municipal wastewater systems from 1970 to 1979. All grant payments

have been made and all grants have been closed. The state continues to pay GPR debt service on the bonds.

[Act 109 Section: 64r]

39. RECYCLING – WHEELCHAIR RECYCLING PROJECT

SEG	$20,000

Joint Finance/Legislature: Create an annual appropriation in DNR and direct DNR to provide $20,000 in recycling fund SEG in 2002-03 to the Wheelchair Recycling Project. Funding would be provided to the Madison Chapter of the National Spinal Cord Injury Association, to provide recycled wheelchairs and other medical equipment to individuals and programs in need and for costs of equipment, parts, maintenance, and distribution. The appropriation would be repealed on July 1, 2003.

[Act 109 Section: 26 (as it relates to s. 20.370(6)(bw)), 36kb, 36kc, 9137(1q) and 9437(1q)]

40. RECYCLING POSITION

	Funding	Positions
SEG	$46,600	1.00

Joint Finance: Provide $46,600 recycling fund SEG and 1.0 SEG program and planning analyst position in 2002-03 in the communication and education program.

Assembly: Include Joint Finance provision. Further, delete $245,000 recycling fund SEG in 2002-03 and 3.6 SEG positions in the waste management program of the Air and Waste Division.

Senate/Legislature: Include Joint Finance provision.

[Act 109 Section: 9237(10e)]

41. RECYCLING – MUNICIPAL AND COUNTY RECYCLING GRANT FORMULA

Joint Finance/Legislature: Change the municipal and county recycling grant formula beginning with grant calendar year 2004 (paid in fiscal year 2003-04) and in subsequent years as follows:

a. Direct DNR to distribute the amount appropriated for grants on a per capita basis to all responsible units of local government that operate effective recycling programs. The amount awarded to a responsible unit would equal the population of the responsible unit times an amount that is the same for each responsible unit and that the Department determines would

distribute as much of the grant appropriation as possible, taking into account the following three adjustments.

b. Limit the grants in 2004 and subsequent years to the eligible costs incurred by the responsible unit two years earlier and reported to DNR in the previous year. For example, a grant made for calendar year 2004 could not exceed eligible costs incurred in calendar year 2002 and reported to DNR in 2003.

c. Specify that only for grant year 2004, a responsible unit that received a grant in 2003 would be eligible for an award equal to a minimum of 80% of the 2003 award. This provision would not apply to responsible units that did not receive an award in 2003.

d. Provide that in 2004 and in subsequent years, any county that is the responsible unit for at least 75% of the county's population would receive a grant equal to the greater of $100,000 or the per capita grant amount, but no more than eligible costs incurred by the responsible unit two years earlier and reported to DNR in the previous year.

Veto by Governor [B-8]: Delete provision.

[Act 109 Vetoed Sections: 370j and 370k]

42. RECYCLING – ENFORCEMENT REQUIREMENTS

Joint Finance: Make the following changes related to recycling enforcement:

a. Prohibit any solid waste facility from accepting solid waste from a building containing five or more dwelling units, or a commercial, retail, industrial or governmental facility that does not provide for the collection of recyclable materials that are subject to the 1995 landfill and incineration disposal bans and that are separated from solid waste by users or occupants of the building or facility. Authorize DNR to create an exception to this prohibition on a case-by-case basis where necessary to protect public health. In addition, specify that the provision would not apply to a person operating a solid waste disposal facility or a solid waste treatment facility if the person has implemented a program to minimize the acceptance of recyclable materials at the facility. DNR would be directed to promulgate administrative rules to establish minimum standards for a program to minimize the acceptance of recyclable materials at a solid waste disposal facility or a solid waste treatment facility. Require that persons who violate the prohibition pay a forfeiture of $50 for the first violation, $200 for the second violation and $2,000 for the third or subsequent violation. Authorize DNR to issue a citation to collect the forfeiture for the violation of the prohibition. (This would be the same as the penalties for violation of the current prohibition.)

b. Prohibit any solid waste facility that provides a collection and transportation service from transporting solid waste for delivery to a solid waste disposal facility or a solid waste treatment facility that converts solid waste into fuel or that burns solid waste with or without energy recovery if the solid waste contains more than incidental amounts of materials subject to the 1995 landfill bans, as provided by DNR rule. The provision would not apply for activities currently exempt from the landfill and incineration bans. The prohibition would be subject to the same enforcement and penalties as for violations of current prohibitions and the new prohibition described above.

c. Revise the exception to the 1995 landfill and incineration bans to apply the exception to waste that contains no more than an incidental amount of the banned recyclables, as established by DNR rule, instead of to any waste that is generated in a region that has an effective recycling program under current law. Direct DNR to promulgate administrative rules to implement the provision. Retain the current exemption to the exception for solid waste that is separated for recycling as part of an effective recycling program.

Assembly: Delete provision.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Delete provision.

43. RECYCLING –STATEWIDE ALTERNATE COMPLIANCE PROGRAM

Assembly: Expand the alternate recycling compliance pilot program established in 2001 Act 16 to be statewide and permanent. The program would offer responsible units of local government an alternative method of complying with the effective recycling program requirement that a responsible unit's program require that the occupants of residential, commercial, retail, industrial and governmental facilities within the responsible unit separate the materials subject to the 1995 landfill and incineration bans, from postconsumer waste. Include the following:

a. Require that the program be available to all responsible units of government in the state, instead of to nine responsible units under the pilot program.

b. DNR would be required to promulgate administrative rules for the statewide program, and would be authorized to promulgate administrative rules without the finding of emergency, for administration of the program.

c. The administrative rules that would be established by DNR for the statewide program would be required to address the same items as the pilot program under current law: (1) set goals for materials to be recycled as a percentage of solid waste generated in the geographic area served by a responsible unit of local government; (2) establish a list of recyclable materials that could be

collected for recycling by responsible units, including materials currently subject to the 1995 landfill bans and other recyclable materials; (3) specify a procedure for a responsible unit to identify the materials that it will require to be separated for recycling under its recycling program; and (4) specify a procedure to be used by DNR to determine whether a responsible unit has achieved the recycled materials percentage goals.

d. Responsible units that comply with the alternate method of compliance with requiring materials to be recycled would not have to comply with the 1995 landfill and incineration bans that are currently required in order to maintain an effective recycling program.

e. Eliminate the repeal date of December 31, 2005, for the pilot program. The alternative method of compliance would be established permanently.

Senate/Legislature: Delete provision.

44. RECYCLING FUND TRANSFER [LFB Paper 1121]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR-REV	$7,100	$3,000,000	$3,007,100
SEG-Transfer	$7,100	$3,000,000	$3,007,100
SEG	- $7,100	$0	- $7,100

Governor: Reduce the statewide recycling administration appropriation by $2,900 SEG in 2001-02 and $4,200 SEG in 2002-03 from the recycling fund. Further, transfer $2,900 SEG in 2001-02 and $4,200 SEG in 2002-03 from the recycling fund to the general fund.

Conference Committee/Legislature: Transfer an additional $3,000,000 SEG from the recycling fund to the general fund in 2002-03. Under the bill, the June 30, 2003, balance in the recycling fund would be expected to exceed $3 million.

[Act 109 Section: 9237(14)&(19)]

45. HOUSEHOLD HAZARDOUS WASTE GRANTS

Senate/Legislature: Specify that regional planning commissions are eligible for household hazardous waste grants, in addition to municipalities currently. DNR is appropriated $150,000 SEG annually in a continuing appropriation from the environmental

management account of the environmental fund for grants to assist municipalities in creating and operating local programs for the collection and disposal of household hazardous waste.

[Act 109 Section: 372s]

46. CONSTRUCTION OF ELECTRIC GENERATING FACILITIES THAT AFFECT RESIDENTIAL WELLS

Assembly: Make changes to the requirements a person must meet before constructing a large electric generating facility. Currently, a person may not begin construction of an electric generating facility with a capacity of 100 megawatts or more unless the Public Service Commission (PSC) issues a certificate of public convenience and necessity to the person. The changes would include:

a. Require that when a person applies for a certificate of public convenience and necessity from the PSC for the construction of a large electric generating facility and submits an engineering plan to DNR at least 60 days before applying for a certificate of public convenience and necessity as required under current law, the plan would have to include a description of the anticipated effects of the large electric generating facility on residential wells on which construction began before the date of submittal of the engineering plan. This would be in addition to the current requirement that the engineering plan for the facility show the location of the facility, describe the facility, including the major components of the facility that have a significant air, water or solid waste pollution potential, and describe the anticipated effects of the facility on air and water quality.

b. When DNR completes action on the application for DNR permits and approvals within 120 days after the date on which the application is determined to be complete under current law, DNR would also have to determine whether the facility will: (1) substantially reduce the availability of water to a residential well on which construction began prior to the date the person provided DNR with the engineering plan; and (2) whether the facility will cause a preventive action limit established under s. 160.15 to be exceeded in water produced by a residential well on which construction began prior to the date the person provided DNR with the engineering plan. DNR establishes a preventive action limit (PAL) that is a numerical value for the concentration of a substance in groundwater for which an enforcement standard is established. The PAL is a contamination limit that is more stringent than the groundwater enforcement standard and is intended as a warning level to allow action to be taken prior to violation of the enforcement standard.

c. The PSC would not be allowed to issue a certificate of public convenience and necessity to the proposed large electric generating facility unless DNR has determined that the facility will not reduce the availability of water to a residential well on which construction began prior to the date of submittal of the engineering plan and that the facility will not cause a

preventive action limit to be exceeded in water produced by a residential well on which construction began prior to the date of submittal of the engineering plan.

d. Provide a retroactive effective date to first apply to any person who filed an application for a certificate of public convenience and necessity for a large electric generating facility after January 1, 2001, and before the effective date of the bill, for which the PSC has not concluded the public hearing required on the application under current law. The person who applied for a certificate of public convenience and necessity before the effective date of the bill would have to file a supplemental engineering plan with DNR within 30 days after the bill's effective date. The supplemental plan would have to describe the anticipated effects of the facility on residential wells constructed prior to the date of submittal of the supplemental plan. No later than 60 days after DNR receives a supplemental plan from an applicant, DNR would be required to determine whether the facility will reduce the availability of water to a residential well on which construction began prior to the date of submittal of the engineering plan and whether the facility will cause a preventive action limit to be exceeded in water produced by a residential well on which construction began prior to the date of submittal of the engineering plan.

e. Apply the provision to a large electric generating facility that withdraws water from underground sources where the capacity and rate of withdrawal of all wells serving the facility, excluding any Ranney wells, is in excess of 100,000 gallons per day. Define a "Ranney well" to be a well in which the central shaft is fed by horizontal perforated pipes extending radially into an aquifer.

Senate/Legislature: Delete provision.

47. GROUNDWATER REGULATIONS FOR AQUIFER STORAGE RECOVERY SYSTEMS

Assembly: Create an exemption to the groundwater law related to regulation of aquifer storage recovery systems. Specify that the exemption would only apply in the City of Oak Creek and Brown County. Include the following provisions:

a. Create the following definitions: (1) an aquifer storage and recovery system would include all of the aquifer storage and recovery wells and related appurtenances that are part of a municipal water system operated in Oak Creek or Brown County; (2) an aquifer storage and recovery well would mean a well through which treated drinking water is placed underground for the purpose of storing and later recovering the water through the same well for use as drinking water; and (3) treated drinking water would mean potable water that has been treated so that it complies with primary drinking water standards promulgated under DNR rules; (4) specified substances would mean one of the following: (a)chloroform; (b) bromo-dichloromethane; (c) dibromochloromethane; or (d) bromoform.

b. Specify that DNR would not be required to promulgate or amend rules that define design or management criteria for aquifer storage and recovery systems in Oak Creek and Brown County to minimize the amount of a specified substance in groundwater or to maintain compliance with the preventive action limit for a specified substance. Require DNR to promulgate rules that define design or management criteria for aquifer storage and recovery systems to maintain compliance with drinking water standards promulgated in DNR rules. Currently, DNR establishes a preventive action limit (PAL) that is a numerical value for the concentration of a substance in groundwater for which an enforcement standard is established. The PAL is a contamination limit that is more stringent than the groundwater enforcement standard and is intended as a warning level to allow action to be taken prior to violation of the enforcement standard. Currently, DNR is required to promulgate rules which define design and management practice criteria for facilities, activities and practices affecting groundwater which are designed, to the extent technically and economically feasible, to minimize the level of substances in groundwater and to maintain compliance by these facilities, activities and practices with preventive action limits, unless compliance with the preventive action limits is not technically and economically feasible.

c. Specify that in Oak Creek and Brown County the point of standards application for an aquifer storage and recovery well with respect to a specified substance is 1,200 feet from the aquifer storage and recovery well. Currently, a point of standards application means the specific location, depth or distance from a facility, activity or practice at which the concentration of a substance in groundwater is measured for purposes of determining whether a preventive action limit or an enforcement standard has been attained or exceeded. DNR rules establish the point of standards application for each facility, activity or practice which is the source of a substance for which an enforcement standard or preventive action limit is established. Currently, under the DNR pilot programs in Oak Creek and Green Bay, the point of standards application is the property boundary.

d. Direct the operator of an aquifer storage and recovery system in Oak Creek or Brown County to submit a report to the Department no later than the first day of the 60th month after beginning to operate the aquifer storage and recovery system, describing the experience that the operator in Oak Creek and Brown County have had with using the aquifer storage and recovery system.

Senate/Legislature: Include the provisions of Senate Bill 452, as passed by the Senate. This is the same as the Assembly provision, except that: (a) the provision would apply statewide; and (b) the point of standards application for determining compliance with the groundwater law for an aquifer storage and recovery well would be 1,200 feet from the aquifer storage and recovery well, as well as at any other well that is within 1,200 feet from the aquifer storage and recovery well (under the Assembly provision, the point of standards application would be 1,200 feet from the aquifer storage and recovery well).

[Act 109 Sections: 338ge and 369gm]

48. WATER QUALITY PLANNING IN DANE COUNTY

Assembly: Make changes related to provision of water quality planning services for Dane County. Provide an effective date of October 1, 2002 (the date that the Dane County Regional Planning Commission is dissolved under current law) and a repeal date of October 1, 2005. Include the following:

a. Require that DNR provide water quality planning services for Dane County. Currently, DNR is responsible for providing water quality planning services for Dane County municipalities with over 10,000 population and contracts with the Dane County Regional Planning Commission to perform water quality planning activities in Dane County.

b. Prohibit the Governor from designating as an areawide water planning area, and DNR from recommending designation of, a water quality planning agency that is not a multi-county regional planning commission. Under current law, DNR has recommended and the Governor has designated the following three areawide water quality planning areas: (1) the seven county Southeast Wisconsin Regional Planning Commission area; (2) Dane County; and (3) the Fox Valley region, including Brown County and portions of the East Central Regional Planning area.

c. Prohibit DNR from entering into an agreement under which another person provides water quality planning services for a county with a population of more than 400,000 that is not included in a multi-county regional planning commission. (Dane County is the only county that would meet this definition.)

d. Specify that all water quality plans in effect for Dane County on September 30, 2002, shall remain in effect after September 30, 2002. As long as DNR provides water quality planning services for Dane County, the Department would be required to apply the approved water quality plan as it exists on September 30, 2002, or amend the plan and apply the amended plan.

Senate/Legislature: Delete provision.

49. ENVIRONMENTAL MANAGEMENT PROGRAMS

Assembly: Include the provisions of Assembly Substitute Amendment 1 to Assembly Bill 479 to create an environmental results program and an environmental improvement program within DNR that are intended to improve the environmental performance of public and private entities through the provision of incentives. Provide DNR with $403,000 SEG in 2002-03 from the environmental management account of the environmental fund. Provide Commerce with $150,000 SEG in 2002-03, from the environmental management account. The programs would include the following components.

General Provisions

Environmental Results Council. An Environmental Results Council would be created within DNR. The Governor would appoint 15 members representing environmental organizations, businesses, local governments and members that do not represent any of these entities. The terms of members would be for five years. The Council would be required to advise DNR about all of the following: (a) the implementation of the program, including the setting of goals for the program; (b) evaluating the costs of applying for the program and of entering into a participation contract or a charter and the administrative costs of participating in the program; (c) assessing whether incentives provided under a participation contract are proportional to the environmental benefits committed to under a participation contract; (d) procedures for evaluating the program; and (e) changes that should be made in the program.

DNR would be directed to consult with the Council about the operation of the environmental results program, priorities for the program and evaluation of the program.

Of the initial members appointed to the Council, three shall be appointed for terms that expire on July 1, 2003, three for terms that expire on July 1, 2004, three for terms that expire on July 1, 2005, three for terms that expire on July 1, 2006, and three for terms that expire on July 1, 2007.

Environmental Results Program

DNR Funding. Provide DNR with $403,000 SEG in 2002-03, in a biennial appropriation, from the environmental management account of the environmental fund for administration of the environmental results program. (No positions would be authorized and no funding would be provided for administration of the environmental improvement program.)

Program Definitions. The bill would create the following program definitions for the environmental results program:

a. A "covered facility" or "activity" would mean a facility or activity that is included, or intended to be included, in the environmental results program.

b. An "environmental management system" would mean an organized set of procedures to evaluate environmental performance and to achieve measurable or noticeable improvements in that environmental performance through planning and changes in operations.

c. An "environmental management system audit" would mean a review of an environmental management system that is conducted in accordance with standards and guidelines issued by the International Organization for Standardization and the results of which are documented and communicated to employees of the participant.

d. "Environmental performance" would, unless otherwise qualified, mean the effects, whether regulated under Chapters 29 to 31 (relating to wild animals and plants, navigable

waters, harbors and navigation and dams and bridges), Chapters 160 (groundwater) and 280 to 299 (relating to drinking water, water, sewage, air, solid and hazardous waste, remedial action, mining and general environmental provisions) or unregulated, of a facility or activity on air, water, land, natural resources and human health.

e. An "environmental requirement" would mean a requirement in Chapters 29 to 31, 160 and 280 to 299, a rule promulgated under one of those chapters, or a permit, license, other approval, or order issued by DNR under one of those chapters.

f. "Functionally equivalent environmental management system" would mean an environmental management system that includes all of the following elements and any other elements that DNR determines are essential elements of International Organization for Standardization standard 14001: (1) adoption of an environmental policy that includes a commitment to compliance with environmental requirements, pollution prevention, and continual improvement in environmental performance; (2) an analysis of the environmental aspects and impacts of the entity's activities; (3) plans and procedures to achieve compliance with environmental requirements and to maintain that compliance; (4) identification of all environmental requirements applicable to the entity; (5) a process for setting environmental objectives and developing appropriate action plans to meet the objectives; (6) establishment of a structure for operational control and responsibility for environmental performance; (7) an employee training program to develop awareness of and competence to manage environmental issues; (8) a plan for taking actions to prevent environmental problems and for taking emergency response and corrective actions when environmental problems occur; (9) a communication plan for collaboration with employees, the public, and the department on the design of projects and activities to achieve continuous improvement in environmental performance; (10) procedures for control of documents and for keeping records related to environmental performance; (11) audits of the environmental management system; and (12) a plan for continually improving environmental performance and provision for senior management review of the plan.

g. "Outside environmental auditor" would mean an auditor who is functionally or administratively independent of the facility or activity being audited, but who may be employed by the entity that owns the facility being audited or that owns the unit that conducts the activity being audited.

h. "Participation contract" would mean a contract entered into by DNR and a participant in tier II of the program, and that may, with the approval of the Department, be signed by other interested parties, that specifies the participant's commitment to superior environmental performance and the incentives to be provided to the participant.

i. "Superior environmental performance" would mean environmental performance that results in measurable or discernible improvement in the quality of the air, water, land, or natural resources or in the protection of the environment beyond that which is achieved under environmental requirements and that may be achieved in ways that include all of the following:

(1) limiting the discharges or emissions of pollutants from, or in some other way minimizing the negative effects on, air, water, land, natural resources, or human health of, a facility that is owned or operated by the entity or an activity that is performed by the entity to an extent that is greater than is required by applicable environmental requirements; (2) minimizing the negative effects on air, water, land, natural resources, or human health of the raw materials used by the entity or the products or services produced or provided by the entity to an extent that is greater than is required by applicable environmental requirements; (3) voluntarily engaging in restoring or preserving natural resources; (4) helping other entities to comply with environmental requirements or to accomplish the results described in (1) or (2); (5) organizing uncoordinated entities that produce environmental harm into a program that reduces that harm; (6) reducing waste or the use or production of hazardous substances in the design, production, delivery, use, or reuse of goods or services; (7) conserving energy or nonrenewable natural resources; (8) reducing the use of renewable natural resources through increased efficiency; and (9) adopting methods that reduce the depletion of, or long-term damage to, renewable natural resources.

j. A "violation" would mean a violation of an environmental requirement.

DNR Powers and Duties. DNR would be required to attempt to do all of the following activities: (a) promote, reward, and sustain superior environmental performance by participants; (b) promote environmental performance that voluntarily exceeds legal requirements related to health, safety, and the environment and results in continuous improvement in the state's environment, economy, and quality of life; (c) provide clear incentives for participation that will result in real benefits to participants; (d) promote attention to unregulated environmental problems and provide opportunities for conservation of resources and environmental restoration by entities that are subject to environmental requirements and entities that are not subject to environmental requirements; (e) make the program compatible with federal programs that create incentives for achieving environmental performance that exceeds legal requirements; (f) increase levels of trust, communication, and accountability among regulatory agencies, entities that are subject to environmental requirements, and the public; (g) reduce the time and money spent by regulatory agencies and entities that are subject to environmental requirements on tasks that do not benefit the environment by focusing on more efficient performance of necessary tasks and eliminating unnecessary tasks; (h) report environmental performance information and data concerning ambient environmental quality to the public in a manner that is accurate, timely, credible, relevant, and useable to interested persons; (i) provide for the measurement of environmental performance in terms of accomplishing goals and require the reporting of the results; (j) implement an evaluation system that provides flexibility and affords some protection for experimentation by participants that use innovative techniques to try to achieve superior environmental performance; (k) remove disincentives to achieving superior environmental performance; (l) provide for sustained business success as well as a reduction in environmental pollution; (m) promote the transfer of technological and practical innovations that improve environmental performance in an efficient, effective, or safe manner; and (n) lower the

administrative costs associated with environmental requirements and with achieving superior environmental performance.

DNR would also be required to: (a) develop model terms that may be used in participation contracts, to facilitate the tier II process; (b) after consulting with interested persons, to annually establish a list identifying aspects of superior environmental performance that DNR will use to identify which letters of intent it will process under the tier II process in the following year and the order in which it will process the letters of intent; (c) to encourage small businesses, agricultural organizations, entities that are not subject to environmental requirements, local governments and other entities to form groups to work cooperatively on projects to achieve superior environmental performance; (d) to select a logo for the program; (e) to consult with the Environmental Results Council about the operation of the program, priorities for the program and evaluation of the program; (f) to, jointly with Commerce, provide information about environmental management systems to potential participants in the program and to other interested persons; and (g) to collect, process, evaluate and disseminate data and information about environmentally beneficial and innovative practices submitted by program participants.

DNR would be authorized to: (a) promulgate administrative rules for the program, and would be authorized to specify incentives, consistent with federal and other state laws, that the Department could provide to tier II participants; (b) conduct or direct studies, experiments, or research related to the program in cooperation with participants and other interested persons; and (c) enter into agreements with the Robert M. La Follette Institute of Public Affairs at the University of Wisconsin-Madison to assist in the promotion, administration, or evaluation of the program.

Environmental Results Program – Tier I

Eligible Program Participants. An applicant could participate in tier I of the environmental results program if the applicant satisfies several requirements. If an applicant for participation in tier I consists of a group of entities, each entity would have to satisfy each requirement. DNR would be required to complete specific activities. Tier I of the environmental results program would include the following requirements.

Enforcement Record. To participate in tier I, an applicant would be required to demonstrate all of the following:

a. Within 60 months before the date of application, no judgment of conviction was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant for a criminal violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.

b. Within 36 months before the date of application, no civil judgment was entered against the applicant, any managing operator of the applicant, or any person with a 25% or

more ownership interest in the applicant for a violation involving a covered facility or activity that resulted in substantial harm to public health or the environment.

c. Within 24 months before the date of application, DOJ has not filed a suit to enforce an environmental requirement, and DNR has not issued a citation to enforce an environmental requirement, because of a violation involving a covered facility or activity.

Environmental Performance. A tier I applicant would be required to submit an application that describes all of the following: (a) the applicant's past environmental performance with respect to each covered facility or activity; (b) the applicant's current environmental performance with respect to each covered facility or activity; and (c) the applicant's plans for activities that enhance the environment, such as improving the applicant's environmental performance with respect to each covered facility or activity.

Environmental Management System. A tier I applicant would be required to do all of the following:

a. Demonstrate that it has implemented, or commit itself to implementing within one year of application, for each covered facility or activity, an environmental management system that is: (1) in compliance with the standards for environmental management systems issued by the International Organization for Standardization or determined by the department to be a functionally equivalent environmental management system; and (2) determined by DNR to be appropriate to the nature, scale, and environmental impacts of the applicant's operations related to each covered facility or activity.

b. Include, in the environmental management system, objectives in at least two of the following areas: (1) improving the environmental performance of the applicant, with respect to each covered facility or activity, in aspects of environmental performance that are regulated under Chapters 29 to 31, 160 and 280 to 299 of the Statutes; (2) improving the environmental performance of the applicant, with respect to each covered facility or activity, in aspects of environmental performance that are not regulated under Chapters 29 to 31, 160 and 280 to 299; and (3) voluntarily restoring, enhancing, or preserving natural resources.

c. Explain to the Department the rationale for the choices of objectives and describe any consultations with residents of the areas in which each covered facility or activity is located or performed and with other interested persons concerning those objectives.

d. Conduct, or commit itself to conducting, annual environmental management system audits, with every third environmental management system audit performed by an outside environmental auditor approved by DNR, and commit itself to submitting an annual report on the environmental management system audit to the Department.

e. Commit itself to submitting to DNR an annual report on progress toward meeting the objectives in the environmental management system.

Public Notice and DNR Approval. After DNR received an application for participation in tier I, the Department would be required to provide public notice about the application in the area in which each covered facility or activity is located or performed. After providing the required public notice about an application, DNR would be authorized (but not required) to hold a public informational meeting on the application. DNR would be required to approve or deny an application within 60 days after providing notice or, if the Department holds a public informational meeting, within 60 days after that meeting.

The Department could limit the number of participants in tier I, or limit the extent of participation by a particular applicant, based on the department's determination that the limitation is in the best interest of the environmental results program. A decision by the department to approve or deny an application would not be subject to administrative or judicial review under Chapter 227.

Incentives. DNR would be required to provide the following incentives for participation in tier I: (a) DNR would be required to issue a numbered certificate of recognition to each tier I participant; (b) the Department would be required to identify each participant in tier I on an Internet site maintained by the Department; (c) DNR would be required to annually provide notice of the participation of each participant in tier I to newspapers in the area in which each covered facility or activity is located; (d) a tier I participant could use an environmental results program logo selected by DNR on written materials produced by the participant; (e) DNR would be required to assign a Department employee to serve as the contact for a tier I participant for any approvals that the participant is required to obtain and for technical assistance; and (f) after a tier I participant implements a complying environmental management system, DNR would be required to conduct any inspections of the participant's covered facilities or activities that are required under Chapters 29 to 31, 160 and 280 to 295 at the lowest frequency permitted under those chapters, except that the Department could conduct an inspection whenever it has reason to believe that a participant is out of compliance with a requirement in an approval.

Environmental Results Program - Tier II

Eligible Program Participants. An applicant could participate in tier II of the environmental results program if the applicant satisfies several requirements. If an applicant for participation in tier II consists of a group of entities, each entity would have to satisfy each requirement. DNR would be required to complete specific activities. Tier II of the environmental results program would include the following requirements.

Enforcement Record. An applicant for tier II would be required to demonstrate all of the following:

a. Within 120 months (instead of 60 months under tier I) before the date of application, no judgment of conviction was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant

for a criminal violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.

b. Within 60 months (instead of 36 months under tier I) before the date of application, no civil judgment was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant for a violation involving a covered facility or activity that resulted in substantial harm to public health or the environment

c. Within 24 months (same as under tier I) before the date of application, DOJ has not filed a suit to enforce an environmental requirement, and DNR has not issued a citation to enforce an environmental requirement, because of a violation involving a covered facility or activity.

Environmental Management System. A tier II applicant would be required to do all of the following:

a. Demonstrate that it has implemented, for each covered facility or activity, an environmental management system that is: (1) in compliance with the standards for environmental management systems issued by the International Organization for Standardization or determined by the Department to be a functionally equivalent environmental management system; and (2) determined by DNR to be appropriate to the nature, scale, and environmental impacts of the applicant's operations related to each covered facility or activity.

b. Commit itself to having an outside environmental auditor approved by the Department conduct an annual environmental management system audit and to submitting an annual report on the environmental management system audit to the Department.

c. Commit itself to annually conducting, or having another person conduct, an audit of compliance with environmental requirements that are applicable to the covered facilities and to submitting the results of the audit to the Department.

Superior Environmental Performance. A tier II applicant would be required to demonstrate a record of superior environmental performance, and describe the measures that it proposes to take to maintain and improve its superior environmental performance.

Application Process. To apply for participation in tier II, an entity would be required to submit a letter of intent to DNR. In addition to providing information necessary to show that the applicant satisfies the tier II requirements, the applicant would be required include the following in the letter of intent: (a) describe the involvement of interested persons in developing the proposal for maintaining or improving the applicant's superior environmental performance, identify the interested persons, and describe the interests that those persons have in the applicant's participation in the environmental results program; and (b) outline the provisions that it proposes to include in the participation contract.

DNR would be authorized to limit the number of letters of intent that it processes based on the staff resources available. When the Department decides to process a letter of intent, within 90 days of receiving the letter of intent DNR would be required to provide public notice about the letter of intent in the area in which each covered facility or activity is located or performed. After providing public notice about a letter of intent, the Department would be authorized (but not required) to hold a public informational meeting on the letter of intent.

Negotiations for a Participation Contract. Within 30 days after the public notice, interested persons could request that DNR authorize them to participate in the negotiations regarding a participation contract. A person who makes a request under this paragraph would be required to describe the person's interests in the issues raised by the letter of intent. The Department would be required to determine whether a person who makes a request would be authorized to participate in the negotiations based on whether the person has demonstrated sufficient interest in the issues raised by the letter of intent to warrant that participation.

If DNR determines that an applicant satisfies the tier II requirements, the Department could begin negotiations concerning a participation contract with the applicant and with any persons to whom the Department granted permission to participate. The department could begin the negotiations no sooner than 30 days after providing public notice about the applicant's letter of intent.

The Department would be authorized to terminate negotiations with an applicant concerning a participation contract. The decision to terminate negotiations would not be subject to administrative or judicial review under Chapter 227. DNR would be required to conclude negotiations within 12 months of beginning negotiations unless the applicant and the Department agree to an extension.

Participation Contract. If negotiations result in a proposed participation contract, the Department would be required to provide public notice about the proposed participation contract in the area in which each covered facility or activity is located or performed.

After providing public notice about a proposed participation contract, DNR could hold a public informational meeting on the proposed participation contract. Within 30 days after providing notice or, if the Department holds a public informational meeting, within 30 days after that meeting, the Department would be required to decide whether to enter into a participation contract with an applicant, unless the applicant and DNR agree to an extension beyond 30 days. In a participation contract, DNR would require that the participant maintain the environmental management system and perform the environmental audits it committed to. The Department could not provide reduced inspections or monitoring as an incentive in a participation contract if the environmental audit is conducted by a person other than an outside environmental auditor.

DNR would be required to ensure that the incentives provided under a participation contract are proportional to the environmental benefits that will be provided by the participant

under the participation contract. The Department would be required to include in a participation contract remedies that apply if a party to the contract fails to comply with the contract. The term of a participation contract could not be less than three years or more than ten years, with opportunity for renewal upon agreement of the parties for additional terms not to exceed the same length as the original term for each renewal. The term of a participation contract could not exceed five years if the participation contract incorporates, modifies, or otherwise affects the terms or conditions of a permit issued under the statutes for water pollutant discharge elimination system permits, storm water discharge permits or air pollution operation permits for stationary sources unless federal and state law authorize a longer term for the permit. There would be no right to an administrative hearing on the department's decision to enter into a contract, but the decision would be subject to judicial review.

Environmental Results Program - Other Requirements

Compliance Reports. If an environmental management system audit reveals any violations of environmental requirements, the participation shall include all of the following in a report of the results of the audit: (a) a description of all violations; (b) a description of the actions taken or proposed to be taken to correct the violations; (c) a commitment to correct the violations within 90 days of submitting the report or according to a compliance schedule approved by DNR; (d) if the participant proposes to take more than 90 days after submitting the report to correct the identified violations, a statement that justifies the proposed compliance schedule, a description of measures that the participant will take to minimize the effects of the violations during the period of the compliance schedule, and proposed stipulated penalties to be imposed if the participant violates the proposed compliance schedule; and (e) a description of the measures that the participant has taken or will take to prevent future violations.

Compliance Schedules. DNR would be required to review the proposed compliance schedule. DNR could approve the compliance schedule as submitted or propose a different compliance schedule. If the participant does not agree to implement a compliance schedule proposed by DNR, the Department would be required to schedule a meeting with the participant to attempt to reach an agreement on a compliance schedule. If the Department and the participant do not reach an agreement on a compliance schedule, DNR would be required to terminate the participation of the participant in the program. If the parties agree to a compliance schedule, the participant would be required to incorporate the compliance schedule into its environmental management system. DNR would not be authorized to approve a compliance schedule that extends longer than 12 months beyond the date of approval of the compliance schedule.

DNR would be required to consider the following factors in determining whether to approve a compliance schedule: (a) the environmental and public health consequences of the violations; (b) the time needed to implement a change in raw materials or method of production if that change is an available alternative to other methods of correcting the violations; and (c) the time needed to purchase any equipment or supplies that are needed to correct the violations.

Stipulated Penalties. DNR would be required to review any proposed stipulated penalties submitted by a regulated entity and to approve them as submitted or to propose different stipulated penalties. If the regulated entity does not agree to the stipulated penalties proposed by the Department, DNR would be required to schedule a meeting with the entity to attempt to reach an agreement on stipulated penalties. If the Department and entity do not reach an agreement, there would be no stipulated penalties for violations of the compliance schedule.

Deferred Civil Enforcement. For at least 90 days after DNR receives a compliance report, the state could not begin a civil action to collect forfeitures for violations that are disclosed in the report by a participant that qualifies for environmental results program participation. If a participant that qualifies for the environmental results program corrects violations that are disclosed in a compliance report within 90 days after DNR receives the report, the state could not bring a civil action to collect forfeitures for the violations.

The state could not begin a civil action to collect forfeitures for violations covered by an approved compliance schedule during the period of the compliance schedule if the participant is not violating the compliance schedule. If the participant violates the compliance schedule, DNR could collect any stipulated penalties during the period in which the stipulated penalties apply or could terminate participation in the program. If the participant violates the compliance schedule and there are no stipulated penalties, DNR could terminate participation in the program. After DNR terminates participation in the program, it could begin a civil action to collect forfeitures for the violations.

If the Department approves a compliance schedule and the participant corrects the violations according to the compliance schedule, the state could not bring a civil action to collect forfeitures for the violations.

The state could begin a civil action at any time to collect forfeitures for violations if any of the following apply: (a) the violations present an imminent threat to public health or the environment or may cause serious harm to public health or the environment; or (b) DNR discovers the violations before submission of a compliance report.

Suspension or Termination of Participation. DNR would be authorized to suspend or terminate the participation of a participant in the environmental results program at the request of the participant. The Department could terminate the participation of a participant in the program if a judgment is entered against the participant, any managing operator of the participant, or any person with a 25% or more ownership interest in the participant for a criminal or civil violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.

DNR could suspend the participation of a participant in the program if the Department determines that the participant, any managing operator of the participant, or any person with a

25% or more ownership interest in the participant committed a criminal or civil violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment and the Department refers the matter to the Department of Justice for prosecution.

DNR could suspend or terminate the participation of a tier I participant if the participant does not implement, or fails to maintain, the required environmental management system, fails to conduct required annual audits, or fails to submit required annual reports.

DNR could, after an opportunity for a hearing, terminate a participation contract if the Department determines that the participant is in substantial noncompliance with the participation contract. A person who is not a party to a participation contract, but who believes that a participant is in substantial noncompliance with a participation contract, could ask the Department to terminate a participation contract.

Charters. DNR would be authorized to issue an environmental results charter to an association of entities to assist the entities to participate in tier I or tier II of the program and to achieve superior environmental performance. An association could consist of private entities, public entities, or a combination of public and private entities. An association to which a charter is issued could be organized on any basis that helps to achieve superior environmental performance.

The charter would be required to: (a) describe the goals of the association; (b) the responsibilities of the entities; and (c) the activities that the entities will engage in to accomplish their goals. The term of a charter could not be less than three years or more than 10 years. The charter could be renewed for additional terms of the same length upon the agreement of the entities and DNR.

DNR would not be allowed to issue a charter unless the Department determines that the entities in the association have the resources to carry out the charter. Before DNR issues a charter, it would have to provide public notice of the proposed charter in the areas in which the activities under the charter will be engaged in. After providing public notice, DNR would be required to hold a public informational meeting on the proposed charter. A decision to issue a charter would not be subject to administrative or judicial review under Chapter 227.

An association to which DNR has issued a charter would be required to report annually to the Department on the activities that have been engaged in under the charter.

DNR could, after providing an opportunity for a hearing, terminate a charter if the Department determines that the entities in the chartered association are in substantial noncompliance with the charter. Any person who has evidence that the entities in a chartered association are not in compliance with a charter could ask DNR to terminate the charter.

Environmental Auditors. DNR could not approve an outside environmental auditor for use by participants unless the outside environmental auditor is certified by the Registrar

Accreditation Board of the American National Standards Institute or meets criteria concerning education, training, experience, and performance that are equal to the criteria in International Organization for Standardization standard 14012.

Access to Records. DNR would be required to make any record, report, or other information obtained in the administration of the program available to the public. However, the Department would be required to keep confidential any part of a record, report, or other information obtained in the administration of this section, other than emission data or discharge data, upon receiving an application for confidential status by any person containing a showing satisfactory to DNR by any person that the part of a record, report, or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret, of that person.

If the Department refuses to release information on the grounds that it is confidential and a person challenges that refusal, DNR would be required to inform the affected participant of that challenge. Unless the participant authorizes DNR to release the information, the participant would be required to pay the reasonable costs incurred by the state to defend the refusal to release the information.

The confidentiality requirements would not prevent the disclosure of any information to a representative of DNR for the purpose of administering the environmental results program or to an officer, employee, or authorized representative of the federal government for the purpose of administering federal law. When the Department provides information that is confidential under the green tier program to the federal government, DNR would also be required to provide a copy of the application for confidential status.

Report to Legislature. DNR would be required to submit a progress report on the environmental results program to the Legislature no later than the first day of the 36th month beginning after the effective date of the act, and every two years after it submits the first report.

Penalties. Any person who intentionally makes a false statement in material submitted under the program would be subject to a fine of not less than $10 nor more than $10,000 or imprisonment for not more than six months, or both.

Program Sunset. DNR would not be authorized to process or approve any application for participation in the environmental results program that it receives after July 1, 2007.

Environmental Improvement Program

Program Definitions. The bill would create the following program definitions for the environmental improvement program:

a. An "environmental compliance audit" would mean a systematic, documented and objective review, conducted by or on behalf of the owner or operator of a facility, of the

environmental performance of the facility, including an evaluation of compliance with one or more environmental requirements.

b. "Environmental performance" would mean the effects of a facility or activity on air, water, land, natural resources and human health.

c. An "environmental requirement" would mean a requirement in any of the following: (1) Chapters 29 to 31, 160 and 280 to 299, a rule promulgated under one of those chapters, or a permit, license, other approval, or order issued by DNR under one of those chapters; or (2) an ordinance or other legally binding requirement of a local governmental unit enacted under authority granted by a state law relating to environmental protection.

d. A "facility" would mean all buildings, equipment, and structures located on a single parcel or on adjacent parcels that are owned or operated by the same person.

e. A "local governmental unit" would mean a city, village, town, county, town sanitary district or metropolitan sewerage district.

f. A "regulated entity" would mean a public or private entity that is subject to environmental requirements.

Eligibility. A regulated entity would qualify for participation in the environmental improvement program for a facility owned or operated by the regulated entity if all of the following happen:

a. The regulated entity conducts an environmental compliance audit of the facility.

b. The regulated entity notified DNR in writing, no fewer than 30 days before beginning the environmental compliance audit, of (1) the date on which the environmental compliance audit would begin, (2) the site or facility or the operations or practices at a site or facility to be reviewed, and (3) the general scope of the environmental compliance audit.

c. The final written report of findings of the environmental compliance audit (1) is labeled "environmental compliance audit," (2) is dated, and (3) includes a plan for corrective action for any violations identified in the audit. A regulated entity could use a form developed by the entity, a consultant or DNR for the final written report of findings of the environmental compliance audit.

d. The regulated entity that owns or operates the facility submits an audit report to DNR within 45 days after the date of the final written report of findings of the environmental compliance audit of the facility. The regulated entity would be required to complete the environmental compliance audit, including the final written report of findings, within 365 days after providing notice to DNR of the date the environmental compliance audit would begin.

e. The regulated entity submits a report as required in the following section.

f. At the time of submitting the report described below, the Department of Justice has not, within two years, filed a suit to enforce an environmental requirement, and the DNR has not within two years, issued a citation to enforce an environmental requirement, because of a violation involving the facility.

Audit Report. The regulated entity would be required to include all of the following in the audit report:

a. A description of the environmental compliance audit, the name of the person who conducted the audit, when it was completed, what activities and operations were examined, what was revealed by the audit, and any other information needed by DNR to make the annual report the Department is required to make to the Legislature

b. A description of any violations that were revealed by the environmental compliance audit and the length of time that the violations may have continued.

c. A description of actions taken or proposed to be taken to correct any violations described in (b) above.

d. A commitment to correct any violations identified in (b) within 90 days of submitting the report or according to a compliance schedule approved by DNR.

e. If the regulated entity proposes to take more than 90 days to correct violations of environmental requirements, a proposed compliance schedule that contains (1) the shortest reasonable periods for correcting the violations, (2) a statement that justifies the proposed compliance schedule, and (3) a description of measures that the regulated entity will take to minimize the effects of the violations during the period of the compliance schedule.

f. If the regulated entity proposes to take more than 90 days to correct violations, the proposed stipulated penalties to be imposed if the regulated entity violates the compliance schedule.

g. A description of the measures that the regulated entity has taken or will take to prevent future violations and a timetable for taking the measures that it has not yet taken.

Public Notice and Comment Period. DNR would be required to provide at least 30 days for public comment on a compliance schedule and stipulated penalties proposed in a report described in the previous section. DNR could not approve or issue a compliance schedule or approve stipulated penalties until after the end of the comment period. Before the start of the public comment period, DNR would be required to provide public notice of the proposed compliance schedule and stipulated penalties that does all of the following:

a. Identifies the regulated entity that submitted the report, the facility at which the violation occurred, the environmental requirement that was violated, indicates whether the violation related to reporting or another administrative requirement and whether the violation

related to air, water solid waste, hazardous waste, or another specified aspect of environmental regulation.

b. Describes the proposed compliance schedule and the proposed stipulated penalties.

c. Identifies a contact person at DNR and at the regulated entity for additional information.

d. States that comments may be submitted to DNR during the comment period and states the last day of the comment period.

Compliance Schedules. DNR would be required to review any proposed compliance schedule submitted by a regulated entity and to approve it as submitted or propose a different compliance schedule. If the regulated entity does not agree to implement a compliance schedule proposed by DNR, the Department would be required to schedule a meeting with the regulated entity to attempt to reach an agreement on a compliance schedule. If DNR and the regulated entity do not reach agreement, DNR could issue a compliance schedule. A compliance schedule would be subject to review under Chapter 227 of the statutes, related to administrative procedures and review.

DNR would not be allowed to approve or issue a compliance schedule that extends longer than 12 months beyond the date of approval of the compliance schedule. The Department would be required to consider the following factors before approving a compliance schedule: (a) the environmental and public health consequences of the violations; (b) the time needed to implement a change in raw materials or method of production if that change is an available alternative to other methods of correcting the violations; and (c) the time needed to purchase any equipment or supplies needed to correct the violations.

Stipulated Penalties. DNR would be required to review any proposed stipulated penalties submitted by a regulated entity and to approve them as submitted or to propose different stipulated penalties. If the regulated entity does not agree to the stipulated penalties proposed by the Department, DNR would be required to schedule a meeting with the entity to attempt to reach an agreement on stipulated penalties. If the Department and entity do not reach an agreement, there would be no stipulated penalties for violations of the compliance schedule. Stipulated penalties approved by DNR would have to specify a period not longer than six months beyond the end of the compliance schedule, during which the stipulated penalties would apply.

Deferred Civil Enforcement. For at least 90 days after DNR receives an audit report under the environmental improvement program, the state could not begin a civil action to collect forfeitures for violations that are disclosed in the report by a regulated entity that qualifies for participation in the environmental improvement program. If a regulated entity that qualifies for the environmental improvement program corrects violations that are disclosed in an audit report within 90 days after DNR receives the report, the state could not bring a civil action to collect forfeitures for the violations.

The state could not begin a civil action to collect forfeitures for violations covered by an approved compliance schedule during the period of the compliance schedule if the regulated entity is not violating the compliance schedule. If the regulated entity violates the compliance schedule, DNR could collect any stipulated penalties during the period in which the stipulated penalties apply. The state could begin a civil action to collect forfeitures for violations that are not corrected by the end of the period in which the stipulated penalties apply. The state could begin a civil action to collect forfeitures for the violations, if the regulated entity violates the compliance schedule and there are no stipulated penalties.

If the Department approves a compliance schedule and the regulated entity corrects the violations according to the compliance schedule, the state could not bring a civil action to collect forfeitures for the violations.

The state could begin a civil action at any time to collect forfeitures for violations if any of the following apply: (a) the violations present an imminent threat to public health or the environment or may cause serious harm to public health or the environment; (b) DNR discovers the violations before submission of audit report under the program; (c) the violations resulted in a substantial economic benefit that gives the regulated entity a clear advantage over its business competitors; (d) the violations are identified through monitoring or sampling required by permit, statute, rule, regulation, judicial or administrative order, or consent agreement; or (e) the violation is a violation of the same environmental requirement at the same facility and committed in the same manner as a violation previously reported by the regulated entity in the audit report, unless the violation is caused by a change in business processes or activities.

Consideration of Actions by a Regulated Entity. If DNR receives a complying audit report from a regulated entity that qualifies for participation in the environmental improvement program, and the report discloses a potential criminal violation, the Department and the Department of Justice would be required to take into account the diligent actions of, and reasonable care taken by, the regulated entity to comply with environmental requirements in deciding whether to pursue a criminal enforcement action and what penalty should be sought.

In determining whether a regulated entity acted with due diligence and reasonable care, DNR and DOJ would be required to consider whether the regulated entity: (a) took corrective action that was timely when the violation was discovered; (b) exercised reasonable care in attempting to prevent the violation and to ensure compliance with environmental requirements; (c) had a documented history of good faith efforts to comply with environmental requirements before beginning to conduct environmental compliance audits; (d) has promptly made appropriate efforts to achieve compliance with environmental requirements since beginning to conduct environmental compliance audits and that action was taken with due diligence; (e) exercised reasonable care in identifying violations in a timely manner; or (f) willingly cooperated in any investigation that was conducted by this state or a local governmental unit to determine the extent and cause of the violation.

Access to Records. DNR would be required to make any record, report, or other information obtained in the administration of the environmental improvement program available to the public. However, the Department would be required to keep confidential any part of a record, report, or other information obtained in the administration of this section, other than emission data or discharge data, upon receiving an application for confidential status by any person containing a showing satisfactory to DNR that the part of a record, report, or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret, of that person.

If the Department refuses to release information on the grounds that it is confidential and a person challenges that refusal, DNR would be required to inform the affected regulated entity of that challenge. Unless the regulated entity authorizes DNR to release the information, the regulated entity would be required to pay the reasonable costs incurred by the state to defend the refusal to release the information.

The confidentiality requirements would not prevent the disclosure of any information to a representative of DNR for the purpose of administering the green tier program or to an officer, employee, or authorized representative of the federal government for the purpose of administering federal law. When the Department provides information that is confidential under the environmental improvement program to the federal government, DNR would also be required to provide a copy of the application for confidential status.

Annual Report. DNR would be required to submit an annual report concerning the environmental improvement program to the Legislative standing committees with jurisdiction over environmental matters. The first annual report would be due no later than the first day of the 24th month beginning after the effective date of the act. DNR would be required to include all of the following in the annual report:

a. The number of audit reports received under the program, including the number of reports by county of the facility involved and by whether the regulated entity is governmental or nongovernmental.

b. The number of violations reported by type, including the number of violations related to air, water, solid waste, hazardous waste, and to other specified aspects of environmental regulation and the number of violations involving each of the following: (1) failure to have a required permit or other approval; (2) failure to have a required plan; (3) violation of a condition of a permit or other approval; (4) release of a substance to the environment; and (5) failure to report.

c. The average time to correct the reported violations and the number of violations not yet corrected, by category under the same aspects as under (b).

d. The number of regulated entities requiring longer than 90 days to take corrective action and a description of the stipulated penalties associated with the compliance schedules for those corrective actions.

e. Any recommendations for changes in the program based on discussions with interested persons, including legislators and members of the public.

Penalties. Any person who intentionally makes a false statement in material submitted under the environmental improvement program would be subject to a fine of not less than $10 nor more than $10,000 or imprisonment for not more than six months, or both.

Sunset. The deferred civil enforcement provisions and consideration of actions by a regulated entity would not apply to a regulated entity that submits an audit report after July 1, 2007.

Commerce Grant Program

Direct Commerce to administer an environmental results and environmental management system grant program. Provide $150,000 SEG in 2003-03 from the environmental management account of the environmental fund, in a biennial appropriation, for grants under the program. (No administrative funding or positions would be provided.) Direct Commerce to make grants to nongovernmental organizations to help those organizations develop the ability to participate as interested persons in the environmental results program administered by DNR. Direct Commerce to allocate at least half of the amounts appropriated for grants under the program in the 2001-03 biennium for these grants. In addition, direct Commerce to make grants to assist persons to develop environmental management systems, as defined under the environmental results program.

Senate/Legislature: Delete provision.

PERSONNEL COMMISSION

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $73,200	- $8,600	- $4,300	- $86,100

Governor: Reduce the Commission's general operations appropriation by $30,100 in 2001-02 and $43,100 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the Commission's general operations appropriation by an additional $8,600 in 2002-03. This amount represents an additional 1% reduction to the agency's state operations appropriation in 2002-03.

Assembly: Reduce the Commission's general operations appropriation by an additional $4,300 in 2002-03. This amount represents an additional 0.5% reduction to the agency's state operations appropriation for 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9238]

PROGRAM SUPPLEMENTS

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $945,600	- $448,500	- $224,400	- $1,618,500

Governor: Reduce the following appropriations by a total of $350,900 in 2001-02 and $594,700 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
Judgments and legal expenses	-$1,800	- $2,500
Financial and procurement services	-6,000	-22,600
Private facility rent increases	-42,700	-94,800
State-owned office rent supplement	-72,900	-144,800
Maintenance of capitol and executive residence	-218,500	-317,100
Executive residence furnishings replacement	-900	-1,300
Groundwater survey and analysis	-8,100	-11,600
Total	-$350,900	-$594,700

Joint Finance: Reduce the following appropriations by a total of $448,500 in 2002-03. These amounts represent an additional 1% reduction to the individual appropriations in 2002-03.

	Reduction Amount
Judgment and legal expenses	-$500
Compensation and related expenses	-129,600
Employer fringe benefit costs	-124,000
Financial and procurement services	-4,500
Physically handicapped supplements	-100
Private facility rental increases	-19,000
State-owned office rent supplement	-29,000
Space management and child care	-65,300
Maintenance of capitol and executive residence	-63,400
Executive residence and furnishings replacement	-300
Groundwater survey and analysis	-2,300
GPR funds general program supplementation	-10,500
Totals	-$448,500

Assembly: Reduce the following appropriations by a total of $224,400 in 2002-03. These amounts represent an additional 0.5% reduction to the individual appropriations in 2002-03.

	Reduction Amount
Judgment and legal expenses	-$300
Compensation and related expenses	-64,800
Employer fringe benefit costs	-62,000
Financial and procurement services	-2,300
Private facility rental increases	-9,500
State-owned office rent supplement	-14,500
Space management and child care	-32,700
Maintenance of capitol and executive residence	-31,700
Executive residence and furnishings replacement	-100
Groundwater survey and analysis	-1,200
GPR funds general program supplementation	-5,300
Total	-$224,400

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9259(1f),(2),(2f),(3),(4),(4f),(5),(6),(7)&(7f) and 9259(8)]

PUBLIC DEFENDER

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

GPR	- $202,500

Governor/Legislature: Reduce the State Public Defender's program administration appropriation by $83,100 in 2001-02, and $119,400 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02, and 5.0% in 2002-03.

[Act 109 Section: 9239(1)]

2. CRIMINAL CODE CHANGES [LFB Paper 1215]

Governor: As part of the truth-in-sentencing provisions, lower the felony thresholds for the following crimes to $1,000 from $2,500: (a) criminal damage to property; (b) graffiti; (c) theft; (d) fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Lower the felony threshold for unlawful receipt of loan payments to $500 from $2,500. Finally, lower the Class E felony range for property damage to a vending machine from $500 to $2,500, to $500 to $1,000. Provide that these changes first apply to offenses committed on the first day of the seventh month after enactment of the bill.

These felony thresholds and range were increased in 2001 Act 16 by the same amounts by which they would be decreased under this provision, and the State Public Defender's (SPD) private bar and investigator reimbursement appropriation was reduced by $40,600 GPR in 2001-02, and $357,500 GPR in 2002-03, to account for lower costs to the SPD to defend these cases as misdemeanors. Lowering these felony thresholds would again increase costs for the SPD, as alleged offenders affected by these changes would again be charged as felons. Assuming an enactment date for the bill of April 1, 2002, these felony threshold increases would increase costs by an estimated $89,400 GPR in 2002-03, with an annual cost increase of $357,500 GPR. The bill provides no additional funding to the SPD's private bar appropriation. [See "Truth-in-Sentencing."]

Joint Finance/Legislature: Delete provision.

3. PRIVATE BAR SHORTFALL [LFB Paper 1215]

	Jt. Finance/Leg	Veto (Chg. to Leg)	Net Change
GPR	$10,721,200	- $1,033,000	$9,688,200

Joint Finance/Legislature: Provide $10,721,200 to the private bar and investigator reimbursement appropriation in 2002-03, $6,647,900 of which is one-time funding, to address a projected shortfall in private bar funding. Further, provide that, notwithstanding any action by the Governor or Secretary of the Department of Administration during the 2001-03 biennium relating to a hiring freeze or requirements for prior approval to expend funds for authorized positions, the Public Defender Board may fill any vacant position for trial or appellate representation that is authorized during the 2001-03 biennium and for which funds have been appropriated.

Veto by Governor [D-8 and D-9]: Reduce the funding increase by $1,033,000 in 2002-03. Delete provision relating to filling vacant positions for trial or appellate representation.

[Act 109 Section: 9239(1z)]

[Act 109 Vetoed Sections: 9139(1z) and 9239(1z)]

PUBLIC INSTRUCTION

1. DEBT LEVY LIMIT FOR CALCULATION OF PARTIAL SCHOOL REVENUES [LFB Paper 1220]

GPR	- $20,000,000

Governor/Legislature: Limit the amount of referenda-approved school district debt levy included in the definition of partial school revenues, beginning in 2002-03, to the lesser of the actual referenda-approved debt levy or $490 million. Set the general school aids funding level at $4,200,945,900 in 2002-03, which is a reduction of $20,000,000 compared to the Act 16 general school aids appropriation.

Under current law, property tax levies for debt service payments of school districts are included in the definition of partial school revenues used in calculating state two-thirds funding. This provision would establish a limit on the total amount of property tax levies to pay debt service on referenda-approved debt that would be included in the two-thirds funding

calculation. If, in the aggregate, school district debt levies exceed this limit, then most school districts would see a proportionate reduction in state support for all school district costs. Debt service costs for all school districts would continue to be aided as shared costs under the equalization formula as under current law. DOA estimates that the referenda-approved debt levy will increase from approximately $490 million in 2001-02 to $520 million in 2002-03, for an increase of $30 million compared to the prior year. Thus, the amount needed to maintain the state's two-thirds commitment would be reduced by $20 million in 2002-03.

[Act 109 Sections: 31, 286, 287 and 9440(1)]

2. JUVENILE CORRECTIONS SCHOOLS IN TWO-THIRDS CALCULATION

Assembly: Specify that $7.7 million of the appropriations for juvenile corrections services in the Department of Corrections be included in the definition of state school aids for the purpose of determining the state's two-thirds funding goal, which is the estimated amount related to educational expenditures at juvenile corrections facilities. As a result of this change, delete $2.6 million GPR in general school aids in 2002-03 to adjust two-thirds funding.

Senate/Legislature: Delete provision.

3. PRIMARY GUARANTEED VALUATION [LFB Paper 1221]

Governor/Legislature: Set the primary guaranteed valuation per member under the equalization aid formula equal to $1,930,000 beginning in 2002-03. This provision would result in a redistribution of aid under the aid formula. Under this provision, these costs would be included in the school districts' shared costs for aid year 2002-03, which would affect the general school aids received by school districts beginning in 2002-03.

Under current law, the equalization aid formula provides support for three levels of shared costs. The first level is for shared costs up to the primary cost ceiling of $1,000 per member. Primary aid is currently calculated using a statutory guaranteed valuation of $2,000,000 per member. State aid at the primary level is based on a comparison between a school district's equalized valuation per member and the primary guaranteed valuation; state aid will equal the amount of costs that would be funded by the missing portion of the guaranteed tax base. Every school district is guaranteed no less in total equalization aid than its primary aid amount; a district's primary aid cannot be reduced by negative aids generated at the secondary or tertiary aid levels. A reduction in the primary guaranteed valuation would result in additional aid being distributed at the secondary aid level.

[Act 109 Sections: 285 and 9340(1)]

4. GENERAL SCHOOL AIDS FUNDING DETERMINATION [LFB Paper 1222]

Governor: Specify that, by June 30, 2004, and biennially by June 30 thereafter, the Joint Committee on Finance determine the amount of funding appropriated for general school aids for the following year. Specify that the general school aids appropriation for the 2004-05 fiscal year would be a sum sufficient equal to the amount determined by Joint Finance.

Under current law, each year by May 15, the Departments of Public Instruction and Administration and the Legislative Fiscal Bureau must jointly certify to the Joint Committee on Finance an estimate of the amount of funding necessary to appropriate for general school aids which, in combination with the amounts provided in the other relevant state aid, levy credit and operations appropriations, would achieve two-thirds funding of partial school revenues in the following school year. Annually, by June 30 the Joint Committee on Finance must determine the amount to be appropriated in the following school year. Under the Governor's recommendation, the general school aids funding level for 2002-03 would be set statutorily, and the funding for 2004-05 would be set as described. DOA staff indicate that the intent for 2003-04 and subsequent even-numbered fiscal years would be to have the Legislature establish the funding level in the budget bill, while funding for 2004-05 and subsequent odd-numbered fiscal years would be established under the current law determination process.

Joint Finance/Legislature: Modify the Governor's recommendation to specify that the general school aids appropriation for the 2003-04 fiscal year, and every even-numbered fiscal year thereafter, would be a sum sufficient equal to the amount set by law, and clarify that the 2004-05 process involving Joint Finance Committee determination would apply to that year and every odd-numbered fiscal year thereafter. In addition, specify that the May 15 certification requirement for DPI, DOA and LFB would not apply in 2002.

[Act 109 Sections: 31, 287m, 288 and 9440(1)]

5. REVENUE LIMIT PER PUPIL ANNUAL INCREASE [LFB Paper 1223]

Governor: Specify that the per pupil adjustment under revenue limits for 2002-03 equal $210. Provide that this adjustment would not apply if a school board adopts a resolution to that effect by a two-thirds vote of the members-elect. Require DPI to encourage school districts to accommodate the reduction in the revenue limit increase without negatively affecting their instructional programs and to provide technical assistance to school districts for that purpose.

Under current law, the per pupil adjustment is indexed for inflation, by multiplying the prior year dollar amount by the percentage change in the consumer price index between the preceding March and the second preceding March. In 2001-02, the adjustment is $226.68. Based on current inflation projections, under current law, the adjustment for 2002-03 is estimated to be approximately $230.67. Under the Governor's proposal, school districts would receive either

the $210 or the estimated $230.67 per pupil adjustment in 2002-03. For 2003-04 revenue limits, the per pupil adjustment for all districts would be the estimated $230.67 adjusted for inflation. DOA staff indicate that they did not include any estimate of the number of districts that would be subject to the $210 adjustment in their determination of the amount needed for two-thirds funding of partial school revenues.

Senate/Legislature: Delete provision.

6. SPECIAL EDUCATION AIDS

Senate: Provide $27,400,000 GPR in 2002-03 for special education aids. Base funding of $315,681,400 is currently appropriated in 2002-03 for these aids. In addition, delete $9,133,300 GPR in 2002-03 in general school aids to adjust two-thirds funding.

Conference Committee/Legislature: Delete provision.

7. MPS ENHANCED CAPACITY AND QUALITY AID

Senate: Provide $8,000,000 GPR in 2002-03 in a newly-created annual categorical aid appropriation for enhanced capacity and quality aid to be provided to Milwaukee Public Schools. In addition, delete $2,666,700 GPR in 2002-03 in general school aids to adjust two-thirds funding.

Conference Committee/Legislature: Delete provision.

8. SAGE FLEXIBILITY

Assembly: Allow schools participating in the student achievement guarantee in education (SAGE) program to alter a contract or a renewal of a contract to reduce class size to 15-to-one, by notifying DPI annually by July 1. The notification would specify those grades from kindergarten through third in which the school district agrees to reduce class size, and the district would be eligible to receive SAGE funding only for those grades that it specifies.

Under current law, participating schools must reduce class size to 15-to-one in each grade from kindergarten through third.

Senate/Legislature: Delete provision.

9. MILWAUKEE PARENTAL CHOICE PROGRAM FUNDING

Senate: Modify the Milwaukee parental choice program as follows: (a) specify that the per pupil payment amount under the program in the 2002-03 school year would be set at the lesser of $2,000 for a student in grades K-8 and at $3,000 for a student in grades 9-12 (rather than an estimated $5,784 for all students under current law) or the private school's operating and debt service cost per pupil that is related to educational programming; (b) specify that the per pupil payment amount under the program in the 2003-04 school year and in subsequent school years would be set at the lesser of $1,000 for a student in grades K-8 and at $1,500 for a student in grades 9-12 or the private school's operating and debt service cost per pupil that is related to educational programming; (c) change the appropriation for the program from sum sufficient to sum certain; and (d) specify that if the funding in the appropriation would be insufficient to make program payments, the payments would be prorated. Reduce funding by $42,900,000 GPR in 2002-03 and reduce the related GPR-Lapse by $19,300,000 in 2002-03.

Conference Committee/Legislature: Delete provision.

10. MILWAUKEE PARENTAL CHOICE PROGRAM AND CHARTER SCHOOLS -- NONDISCRIMINATION, STANDARDS AND ASSESSMENTS

Senate: Specify that schools participating in the Milwaukee parental choice program (MPCP) and charter schools must comply with the same pupil nondiscrimination statutory requirements as public schools. Require MPCP schools and charter schools to develop written policies and procedures to implement the nondiscrimination policies and submit them to the State Superintendent. Require that the policies and procedures provide for receiving and investigating complaints regarding possible violations of policies, for making determinations as to whether the policies have been violated and for ensuring compliance with the policies. Require that any person who receives a determination against his or her complaint may appeal the determination to the State Superintendent. Specify that information on compliance of charter schools and MPCP schools with the nondiscrimination statutory requirements be included in DPI's biennial report. Specify that the State Superintendent periodically review charter school and MPCP school programs, activities and services to determine whether these schools are complying with the nondiscrimination statutory requirements, and assist these schools with compliance by providing information and technical assistance upon request. Specify that charter school and MPCP school officials, employees and teachers who intentionally engage in discriminatory conduct in violation of the statutory requirements be required to forfeit not more than $1,000.

Delete current language, made duplicative by this provision, which prohibits charter schools from discriminating in admission or denying participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

Clarify current language to reflect that the Governor issued pupil academic standards as Executive Order no. 326, dated January 13, 1998.

Require that MPCP schools adopt, by January 1, 2003, or by January 1 of the first school year in which the school participates in MPCP, whichever is later, pupil academic standards in mathematics, science, reading and writing, geography and history. Specify that the schools may adopt the pupil academic standards issued by the Governor as Executive Order no. 326, dated January 13, 1998.

Require that MPCP schools administer to 3rd grade MPCP pupils the 3rd grade reading comprehension test developed by DPI.

Require that MPCP schools that operate high school grades adopt a high school graduation test that is designed to measure whether pupils meet the pupil academic standards adopted by the school. Require the test to be administered at least twice annually to all MPCP pupils attending the 11th and 12th grades and only those grades at the school, beginning at the time public schools must do this. If the MPCP school has adopted the pupil academic standards issued as executive order no. 326, dated January 13, 1998, then allow the school to adopt the high school graduation test developed by DPI. If the MPCP school develops and adopts its own high school graduation test, require that it notify DPI annually by October 1 that it intends to administer the test in the following school year.

Require that each MPCP school must develop a policy specifying the criteria for granting a high school diploma to MPCP pupils, beginning at the time public schools must do this. The criteria must include the pupil's score on a high school graduation exam adopted by the school, the pupil's academic performance and the recommendations of teachers. Require that MPCP schools may not grant a high school diploma to any MPCP pupil unless the pupil has satisfied the criteria specified by the policy developed by the school, beginning at the time public schools must do this.

Require that each MPCP school operating the appropriate grades develop or adopt and annually administer an examination designed to measure pupil attainment of knowledge and concepts in the 4th, 8th and 10th grades. If the MPCP school develops or adopts its own 4th or 8th grade examination, then require the school to notify DPI. If the MPCP school has developed or adopted its own 4th or 8th grade exams, require the school to administer the exams to the MPCP pupils attending those grades. If the MPCP school has not developed or adopted its own 4th or 8th grade exams, require the school administer the exams approved by the State Superintendent to the MPCP pupils attending those grades. Beginning on July 1, 2003, require MPCP schools to provide a pupil with at least two opportunities to take the exams adopted by the school.

Require that each MPCP school adopt a written policy specifying criteria for promoting MPCP pupils from the 4th grade to the 5th grade and from the 8th grade to the 9th grade. Require that the criteria include the pupil's score on the 4th or 8th grade exam adopted by the school,

unless the pupil has been excused from taking the exam by a parent or guardian; the pupil's academic performance; the recommendations of teachers, which must be based solely on the pupil's academic performance; and any other academic criteria specified by the school. Require that beginning on September 1, 2003, an MPCP school could not promote a 4th grade MPCP pupil to the 5th grade, and could not promote an 8th grade MPCP pupil to the 9th grade, unless the pupil satisfies the criteria for promotion specified by the school.

Require MPCP schools to comply with the same statutory requirements as public and charter schools with regard to including pupils with disabilities in statewide and local educational agency-wide assessments, with appropriate modifications where necessary, or in alternative assessments for those pupils who cannot participate in the statewide or local educational agency-wide assessments.

Specify that MPCP schools, in addition to public and charter schools as specified under current law, may determine not to administer an exam to a limited-English proficient pupil, as defined in statute, may permit the pupil to be examined in his or her native language, or may modify the format and administration of an exam to such pupils.

Require MPCP schools to excuse a pupil from taking a 4th, 8th, 10th or high school graduation exam upon the request of the pupil's parent or guardian.

Specify that MPCP schools, in addition to public and charter schools as specified under current law, are not required to administer the 4th and 8th grade exams approved by the State Superintendent if the school administers its own 4th and 8th grade exams and provides the State Superintendent with statistical correlations of those exams approved by the State Superintendent, and the U.S. Department of Education approves.

Require charter schools to permit public inspection and copying of any record, as defined in statute, of the school to the same extent as is required of and subject to the same terms and enforcement provisions that apply to, an authority under the statutes governing public records and property. Require charter schools to provide public access to meetings of the governing body of the charter school to the same extent as is required of and subject to the same terms and enforcement provisions that apply to, governmental bodies under the statutes governing open meetings of governmental bodies.

Require MPCP schools to permit public inspection and copying of any record, as defined in statute, of the school to the same extent as is required of and subject to the same terms and enforcement provisions that apply to, an authority under the statutes governing public records and property. Require MPCP schools to provide public access to meetings of the governing body of the MPCP school to the same extent as is required of and subject to the same terms and enforcement provisions that apply to, governmental bodies under the statutes governing open meetings of governmental bodies.

Conference Committee/Legislature: Delete provision.

11. OPEN ENROLLMENT -- REQUIREMENT FOR TEACHER IN THE SAME ROOM

Senate: Prohibit a nonresident school board under the open enrollment program from assigning a pupil to a school or program in which the pupil would receive less than 50% of his or her instruction from a licensed teacher who is present in the same room as the pupil. This prohibition would not apply after July 1, 2004.

Conference Committee/Legislature: Delete provision.

12. YOUTH CHALLENGE PROGRAM [LFB Paper 1190]

Joint Finance/Legislature: Specify that a school district where the custodial parent or guardian of a cadet in the Youth Challenge program resides at the time of the cadet's enrollment in the program in the prior year could count the cadet in its membership for general school aid and revenue limit purposes on a prior year basis. Specify that, for each cadet enrolled in the program, DPI decrease the equalization aid (or other state school aid payments received by the district, if necessary) that would be paid to the relevant school district by either an amount equal to the current year revenue per pupil for the district under revenue limits or an amount equal to 40% of the average per-cadet cost for the program, as calculated by the Department of Military Affairs (DMA), whichever is less. Require DPI to ensure that the aid adjustment does not affect the amount of equalization aid determined to be received by the district for any other purpose. Specify that these adjustments not be considered in determining a school district's revenue limit. Require DPI to remit the total funding withheld from school districts under these provisions to DMA for crediting to a new PR appropriation for operations of the program. Require DPI to provide DMA a list of the districts that had their aid reduced under these provisions, the amount of the reduction and the number of pupils enrolled in the district attending the program.

Require DMA to calculate an amount equal to 40% of the average cost per pupil attending the program and to report it to DPI. Require DMA to report to each school district in which a pupil attending the program is enrolled the pupil's name and the name and address of the pupil's custodial parent or guardian.

Additional information on the Youth Challenge program is summarized in a separate entry under "Military Affairs."

[Act 109 Sections: 31, 43c, 72c, 72d, 284m, 285m, 288m and 9436(1)]

13. HIGH SCHOOL GRADUATION TEST [LFB Paper 1224]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	$0	- $3,275,000	- $3,275,000

Governor: Delay by two years, until 2004-05, the current law requirement that beginning in 2002-03, a school board or charter school operating high school grades must administer a high school graduation test. Also delay by two years, until September 1, 2004, the current law requirement that by September 1, 2002, a school board or charter school that operates a high school must adopt a written policy specifying criteria for granting a high school diploma, which must include a pupil's score on a graduation test. Delay by two years, until September 1, 2005, the current law requirement that beginning September 1, 2003, a high school diploma cannot be granted to any pupil unless the pupil has satisfied the school board's or charter school's criteria.

Joint Finance/Legislature: Modify the Governor's recommendation to delete base funding of $900,000 in 2001-02 and $2,375,000 in 2002-03 for the high school graduation test.

[Act 109 Sections: 282 thru 284 and 9240(2)]

14. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $2,389,800	- $296,200	- $148,100	- $2,834,100

Governor: Reduce the following GPR appropriations by a total of $960,900 in 2001-02 and $1,428,900 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	- $777,500	- $1,120,500
General Program Operations -- School for the Deaf and Center for the Blind and Visually Impaired	0	0
Pupil Assessment	-183,400	-308,400
Total	-$960,900	-$1,428,900

The reductions for the two general program operations appropriations are calculated using the total base amount of both the DPI general program operations appropriation and the appropriation for the state residential schools (School for the Deaf and the Center for the Blind and Visually Impaired). However, the entire reduction attributable to these two appropriations

is made to the DPI general program operations appropriation. The bill would specify that during the 2001-02 or 2002-03 fiscal year or both, the Joint Committee on Finance could transfer all or part of the reduction from the DPI general operations appropriation to the appropriation for the state residential schools without making the findings normally required to make such a transfer under current law. The DPI general program operations appropriation totals $11,779,400 in 2001-02 and $11,974,400 in 2002-03, while the appropriation for the state residential schools totals $10,434,900 annually. If the entire funding reduction of $777,500 in 2001-02 and $1,120,500 in 2002-03 would be taken from the DPI general program operations appropriation, it would represent a 6.6% reduction in 2001-02 and a 10.7% reduction in 2002-03.

Joint Finance: Modify the Governor's recommendation, to reallocate $365,200 in 2001-02 and $521,700 in 2002-03 of the budget reduction from the appropriation for DPI general program operations to the appropriation for the state residential schools, and to delete the related provision allowing Joint Finance transfer without making findings.

In addition, reduce the general program operations appropriation by $296,200 in 2002-03. This amount represents an additional 1% reduction calculated using the total base amount in all of DPI's GPR state operations appropriations in 2002-03. However, the entire reduction is applied to the DPI general program operations appropriation. Provide that DPI may submit a request to the Committee under s. 13.10 to reallocate any amount of this 1% reduction to any of DPI's other sum certain, state operations appropriations funded from GPR.

Assembly: Modify the Joint Finance provision to reduce the agency's largest general program operations appropriation by an additional $148,100 in 2002-03. This amount represents an additional 0.5% reduction in the agency's state GPR operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to allocate any amount of this 0.5% reduction to any of the agency's other sum certain, state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9240(1) & (1q) & (2), and 9259(7z)]

15. MINORITY PRECOLLEGE SCHOLARSHIPS

GPR	$500,000

Joint Finance/Legislature: Provide $500,000 in 2002-03 for the minority precollege scholarship program, which provides funds for minority students in grades 6 through 12 to attend precollege courses at campuses throughout the state. The scholarship pays for the cost of the course, books, supplies, room and board. In Act 16, $1,525,000 in 2001-02 and $1,677,500 in 2002-03 is appropriated for the program.

[Act 109 Section: 9240(4f)]

16. 5.0% BUDGET REDUCTIONS RELATING TO PUBLIC LIBRARIES

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $789,900	$36,800	$184,400	- $568,700

Governor: Reduce the following GPR appropriations by a total of $789,900 in 2002-03. This amount represents 5.0% of the appropriations in 2002-03.

	Reduction in 2002-03
Aid to Public Library Systems	-$737,500
Library Service Contracts	-52,400
Total	-$789,900

Joint Finance: Modify the Governor's recommendations to provide $36,800 in 2002-03 to restore the 5.0% reduction in the appropriation for library service contracts attributable to the Wisconsin Regional Library for the Blind and Physically Handicapped (WRLBPH), leaving a total remaining reduction for library service contracts of $15,600. Direct DPI to maintain the contract with WRLBPH at its current level.

Senate: Modify provision to restore $368,700 for aid to public library systems and $7,800 for library service contracts in 2002-03.

Conference Committee/Legislature: Modify Senate provision to restore $184,400 for aid to public library systems.

[Act 109 Sections: 9240(3) & (4)]

17. PROGRAM REVENUE LAPSES [LFB Paper 1121]

GPR-REV	$230,400
PR-Lapse	230,400

Governor/Legislature: Lapse a total of $94,900 in 2001-02 and $135,500 in 2002-03 to the general fund from the following PR appropriations.

	2001-02	2002-03
Personnel Certification	$47,500	$67,800
AODA Program	47,400	67,700
Total	$94,900	$135,500

[Act 109 Section: 9259(1)]

18. FUEL AND UTILITIES LAPSE ESTIMATE

GPR-Lapse	$195,200

Governor/Legislature: Estimate the 2001-02 lapse amount from the agency's energy costs appropriation for the state's residential schools at $195,200. The agency is currently appropriated $444,100 GPR in 2001-02 for energy costs. The agency's energy costs appropriation is not actually reduced under the bill; however, the fiscal effect of the estimated lapse is included in the general fund condition statement.

19. MILWAUKEE PUBLIC MUSEUM

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- $50,000	$50,000	$0

Governor: Delete $50,000 GPR in 2002-03 and the appropriation for the Milwaukee Public Museum. Eliminate the current law requirement that the State Superintendent annually distribute the amount of the appropriation to the museum to develop curricula and exhibits relating to African-American history, if the Museum provides an equal amount of money for that purpose. These provisions would take effect on July 1, 2002.

Joint Finance/Legislature: Delete provision, which would restore funding for the Museum.

20. HOME INSTRUCTION PROGRAM FOR PRESCHOOL YOUNGSTERS

Joint Finance: Require DPI to award a subgrant of at least $250,000 FED to the home instruction program for preschool youngsters in 2002-03 from federal funding under the William F. Goodling Even Start Family Literacy program. The home instruction program for preschool youngsters is a research-based program to promote parental involvement, family literacy and to prepare children to enter school.

Senate: Delete provision.

Conference Committee/Legislature: Modify the Joint Finance provision to specify that, to the extent permitted under federal law, DPI award a subgrant of at least $250,000 FED to the home instruction program for preschool youngsters in 2002-03 from federal funding, under the William F. Gooding Even Start Family Literacy program or other applicable federal programs.

[Act 109 Section: 9140(2x)]

21. SALE OF SOFT DRINKS IN SCHOOL

Senate/Legislature: Require that if a school board enters into a contract that grants to one vendor the exclusive right to sell soft drinks in one or more schools of the school district, then the contract could not prohibit the sale of milk in any school. Specify that, to the maximum extent possible, the school board would have to ensure that milk is available to pupils in each school covered by the contract whenever and wherever the soft drinks are available to pupils. The provision would first apply to contracts entered into, modified, extended, or renewed on the effective date of the bill.

Veto by Governor [A-3]: Delete the requirement that milk be made available to pupils whenever and wherever the soft drinks are available to pupils.

[Act 109 Sections: 280n and 9340(2e)]

[Act 109 Vetoed Section: 280n]

PUBLIC SERVICE COMMISSION

1. PROGRAM REVENUE LAPSES [LFB Paper 1121]

GPR-REV	$792,700
PR-Lapse	792,700

Governor: Lapse a total of $326,400 in 2001-02 and $466,300 in 2002-03 to the general fund from the following PR appropriations.

	2001-02	2002-03
Utility Regulation	$291,400	$416,300
Railroad Regulation	35,000	50,000
Total	$326,400	$466,300

Senate/Legislature: Modify the provision to delete the $291,400 required lapse in 2001-02 from the Commission's utility regulation appropriation and increase the required lapse from this appropriation by an equivalent $291,400 in 2002-03 to $707,700 in that year. There would be no net fiscal change associated with this shift.

Stipulate that the Secretary of DOA may not lapse the $707,700 in 2002-03 from the utility regulation appropriations account unless the Commission fills certain vacant positions related to the performance of environmental analysis and engineering review (described below in Item #5) by the first day of the sixth month after the general effective date of the budget adjustment act.

Veto by Governor [F-4]: Delete the provision prohibiting the Secretary of DOA from lapsing $707,700 in 2002-03 from the Commission's utility regulation appropriations account unless the PSC had filled 3.0 PR vacant positions related to environmental analysis and engineering reviews (see Item #5 below) by the first day of the sixth month following the general effective date of the bill.

[Act 109 Section: 9259(1)]

[Act 109 Vetoed Sections: 9142(1x) and 9259(1)]

2. SEGREGATED REVENUE TRANSFER [LFB Paper 1121]

GPR-REV	$340,000
SEG-Transfer	340,000

Governor/Legislature: Transfer $140,000 in 2001-02 and $200,000 in 2002-03 to the general fund from the Commission's universal telecommunications service SEG appropriation.

[Act 109 Section: 9259(1)]

3. CREATION OF A WIRELESS 911 BOARD AND WIRELESS 911 ASSESSMENTS

Assembly: Create a Wireless 911 Board under the Department of Commerce, direct wireless providers to impose a $0.50 per month wireless 911 surcharge on each wireless telephone user with a billable address in Wisconsin and authorize the Board to make grants

from the amounts assessed to public agencies and to wireless providers for equipment and operational upgrades for providing improved 911 wireless emergency telephone service.

Wireless 911 Board. Create a 12-member Wireless 911 Board, attached administratively to the Department of Commerce, comprised of the following members: (1) one representative, appointed by the Speaker of the Assembly; (2) one representative, appointed by the Assembly minority leader; (3) one senator, appointed by the President of the Senate; (4) one senator, appointed by the Senate minority leader; (5) four members who represent wireless telecommunications providers and who are appointed by the Governor; and (6) four members who represent public agencies that operate emergency telephone service systems and who are appointed by the Governor. Senate confirmation would not be required for the Board members appointed by the Governor. Specify that the Board's public members would serve three-year terms, and could not serve more than two consecutive terms.

Wireless 911 Surcharge Authorized. Require wireless telecommunications providers to impose a $0.50 surcharge on each wireless telephone number that has a billable address in the state and to remit this surcharge to the Board. Direct the wireless telecommunications provider to identify the surcharge on the customer's bill as a "Wireless 911 Surcharge" and direct that the surcharge be imposed on the first bills issued after July 1, 2002. Stipulate that during the 2002-03 fiscal year, the wireless telecommunications provider may retain 2% of the amounts surcharged for reimbursing the costs of collecting the surcharge. Prohibit cities, villages, towns, counties, and other state agencies from requiring wireless telecommunications providers to collect or pay a surcharge or fee related to wireless emergency telephone service. Establish staggered, initial terms for the first public members appointed to the Board.

It is estimated that there are 1,500,000 wireless telecommunications customers in the state. Consequently, a $0.50 monthly fee would generate $9,000,000 annually for grants and Board operations.

Create four PR-funded, continuing appropriations under the Department of Commerce to which the wireless assessment revenues would be credited. No expenditure authority is estimated under these appropriations; however, under a continuing appropriation, the Board would be authorized to expend any monies credited to the appropriations. Specify that 48.75% of the assessment amounts received would be used to fund grants to wireless providers, 48.75% of the assessment amounts received would be used to fund grants to public agencies, and 2.5% would be used to fund the Board's general program operations.

Board Powers and Duties: Grants. Require the Board to make grants from the wireless surcharge revenues to wireless telecommunications providers and to public agencies that operate public safety answering points. Specify that a wireless telecommunications provider would be eligible for a grant from the Board if the provider is subject to orders of the Federal Communications Commission (FCC) regarding wireless 911 emergency telephone services.

The FCC's phase 1 orders require that certain wireless providers provide local public safety answering points with the telephone number of the originating 911 call and the location of the cell site or cell tower receiving the call. Under the FCC's phase 2 requirements, upon the request of a qualified local public safety answering point, the wireless provider must provide, as part of the 911 call, the identification of the caller's location, to within 50 meters for 67% of all in-coming calls, and to within 150 meters for 95% of all incoming calls. The grants provided by the Board would be for the purpose of establishing these capabilities for both wireless providers and public agencies operating a public safety answering point.

Specify that eligible grant expenses for a wireless provider would include the designing, upgrading, purchasing, leasing, programming, installing or testing of equipment and software necessary to comply with the FCC orders.

Specify that a public agency would be eligible for a grant only if the Board determines that the agency is providing, or has begun to implement, 911 emergency services for wireless users and the agency has complied with the FCC's orders. Specify that eligible grant expenses for public agencies would include: (a) necessary network equipment, computer hardware and software, database equipment and radio and telephone equipment at the public safety answering point; (b) training of agency operators; and (c) network costs for the delivery of calls from a wireless provider to the public safety answering point. Prohibit a public agency from using grant funds for emergency service dispatch, vehicles and equipment in vehicles, communications equipment to communicate with vehicles, real estate and associated improvements or salaries and benefits of operators. Stipulate that the grants could not fund more than 50% of the public agencies eligible expenses enumerated above. Authorize the Board to make grants in installments, if there are insufficient funds in a surcharge account.

Specify that if there are insufficient funds to support a grant to a wireless telecommunications provider, the Board could fund the grant from the grants to public agencies appropriation account; however, that appropriation account must be made whole from assessment revenues as soon as practicable.

Require the Board to contract for independent audits of grant applications. Require the Board to establish procedures that prohibit members of the Board from having access to confidential business information submitted by wireless telecommunications providers. Authorize the Board to withhold from public inspection any information the Board receives that would aid the competitor of a wireless provider.

Specify that a wireless provider would not be liable to any person who uses a wireless emergency telephone number system for which a grant has been provided.

Board Powers and Duties: Administrative Rules. Authorize the Board to promulgate rules establishing the commencement of the wireless surcharge and the manner of its payment to the Board. Authorize the Board to increase or decrease the amount of the wireless 911 surcharge by

rule, except that the Board could not increase the surcharge more than once during a year. Specify that any annual increase must be uniform statewide and could not exceed $0.10. Prohibit a Board modified surcharge from exceeding $1 per telephone number per month. Direct the Board to promulgate rules establishing requirements and procedures for informing the public about the uses of the surcharge and requiring that the Board maintain a toll-free number to provide the information. Specify that the rule direct wireless providers to include the Board's toll-free number on its customer bills. In the event that all the members of the new Board are not appointed and qualified before July 1, 2002, authorize the Department of Commerce to promulgate emergency rules establishing the wireless surcharge. If the Board is operational by that date, authorize it to establish the commencement of the wireless surcharge by emergency rule. In either case, a finding of an emergency would not be required.

Other Board Duties. Require the Board to submit an annual report to the Governor and to the Legislature that describes the costs incurred by wireless providers and public agencies in providing wireless 911 service and the grants made by the Board.

Sunset Provision. Specify that the wireless 911 surcharge, the Wireless 911 Board and associated grant program would sunset on the first day of the 120th month beginning after the bill's effective date.

Senate/Legislature: Delete provision.

4. SERVICE REQUIREMENTS FOR LARGE TELECOMMUNICATION UTILITIES

Senate: Establish the following telecommunications service standards, generally applicable to large telecommunications utilities, defined as a telecommunications utility that has more than 500,000 access lines in the state [Ameritech].

Service Standards for Retail Customers

Service Disruptions. Stipulate that if the local exchange service of an end-user customer is disrupted and remains disrupted for more than 24 hours, the large telecommunication utility would be required to issue the following credits: $35 for each primary residential line, $5 for each other residential line, $135 for each main business line, and $25 for each other business line. A separate credit would be required for each 24-hour period, or portion of a 24-hour period in which service is disrupted. Provide that the utility would not have to issue the credit if any of the following applied: (a) the disruption was caused by the end-user customer or their telecommunication's equipment; (b) the disruption was caused by a natural disaster, act of God, military action, war, insurrection, or riot; or (c) the end-user failed to keep an appointment to repair the disruption that prevented the utility from repairing the problem.

Failure to Install Local Exchange Service. Stipulate that if a large telecommunication utility fails to install local exchange service or related equipment within five business days after an end-user customer places a service order, the utility would be required to issue the following credits: $35 for each residential line and $135 for each business line for each business day (or portion thereof) beyond the fifth business day that the service is not installed. Provide that the utility would not have to issue the credit if any of the following applied: (a) the installation of the service is in an undeveloped area with no telecommunications facilities; (b) the failure to install was due to a natural disaster, act of God, military action, war, insurrection, or riot; or (c) the failure to install resulted from the customer voluntarily changing the installation date without providing 48 hours notice to the utility.

Failure to Keep Appointments. Stipulate that if a large telecommunication utility fails to keep an appointment to install service or make on-premises or outside repairs for an end-user customer, the utility would be required to issue the following credits: $35 for each residential line and $135 for each business line affected by the failure. Further, require the telecommunications utility to inform the customer when the appointment is made of the utility's obligation to issue the credit. Provide that the utility would not have to issue the credit if the utility provided the customer with 24-hour advance notice that the utility would be unable to keep the appointment or if a natural disaster, act of God, military action, war, insurrection, or riot prevented the utility from keeping the appointment.

Other Telecommunications Utilities Subject to These Service Standards. Authorize the PSC to issue an order applying the above retail service standards to a telecommunications utility other than a large telecommunications utility if the Commission finds that the other telecommunications utility has demonstrated poor retail service that was not caused by poor wholesale service from a telecommunications utility or that has intentionally violated any state or federal law, rule, regulation or order relating to retail service.

Credit Procedures. If a telecommunications utilities is required to provide a credit for poor retail service, specify that the utility would be required to provide the credit on the first bill following the event in which the credit is required. Specify that the customer would not have to provide notice as a condition for receiving the credit. Stipulate that the payment of these credits would not bar the customer from seeking other remedies.

Sunset. Specify that the retail service provisions described above would not apply after the first day of the 36th month following the general effective date of the budget adjustment act.

Service Standards for Wholesale Service

Require a telecommunications utility that provides wholesale services to a telecommunications provider to do so on the same terms and conditions that the utility provides to itself or to any of its affiliates.

No later than the first day of the 4th month beginning after the effective date of the budget adjustment act, require the PSC to establish, by order, minimum wholesale service standards that require a large telecommunications utility to do all of the following: (a) provide wholesale services and related facilities in a timely manner; (b) repair wholesale service outages in a timely manner; (c) minimize the frequency of trouble reports, including trouble reports within 30 days after initiating a wholesale service; and (d) minimize the frequency of repeat trouble reports. Specify that "wholesale services" would include telecommunications services, products, or facilities, provided by a telecommunications utility to a telecommunications provider, including preordering, ordering and provisioning, maintenance and repair, network performance, unbundled elements, operator services and directory assistance, system performance, service center availability, billing, and any other service that the Commission specifies by order.

Authorize the Commission to issue an order that applies the above standards to other telecommunication utilities if the Commission finds that the other utility has engaged in a demonstrable pattern of poor wholesale service or has intentionally violated any state or federal law, rule, regulation, or order relating to wholesale service.

Authorize the Commission's order to require a telecommunications utility that fails to comply with these wholesale service standards to make payments to a telecommunications provider that is affected by the failure. Specify that the payment amounts would be in accordance with schedules established in the PSC order and would be payable to the Commission's consumer education and awareness appropriation. Specifically authorize the PSC to require a large telecommunications utility to make such payments. Authorize the PSC to promulgate rules to implement the requirements of these service standard orders.

Penalties Applicable to Price-Regulated Telecommunications Utilities

Authorize the Commission to require a price-regulated telecommunications utility that provides inadequate service or makes insufficient investment to forfeit not more than the dollar value of the decrease in rates resulting from applying a 10% penalty and a 0% incentive mechanism on the utility's rates. Authorize the PSC to impose the forfeiture on a price-regulated utility with more than 500,000 access lines in the state if the Commission determines during its annual review of rate increases that the utility has provided inadequate service or made insufficient investment.

Under current law, a large price-regulated telecommunications utility may annually adjust its rates by an amount equal to the annual change in the gross domestic product price index, less 3%. Further, a penalty provision may be applied to the above formula as an offset for inadequate service. The 3% reduction applied to the reduction from the change in the gross domestic product price index may be increased by up to an additional 2%. Similarly, an incentive mechanism to encourage infrastructure investment may decrease by up to 2% the 3% reduction applied to the annual change in the gross domestic product price index.

Required Standards for Services Provided to Other Telecommunication Utilities

Require a large, price-regulated telecommunications utility operating in the state to provide interconnection, collocation, and network elements to telecommunications providers in a manner that promotes the maximum development of competitive telecommunications service offerings in this state. Require these services to be provided in a manner specified by the telecommunications provider, if the manner is technically feasible. A manner would be deemed technically feasible if the large telecommunications utility provides the service to its affiliates or provides the services in the requested manner in any jurisdiction served by the utility. Define "network element" as a facility or equipment used to provide telecommunications service, including features, functions, and capabilities that are provided by means of such a facility or equipment, such as subscriber numbers, databases, signaling systems, and information sufficient for bills or collections or that are used in transmitting, routing, or otherwise providing telecommunications service.

Collocation Services. Require a large, price-regulated telecommunications utility to provide physical or virtual collocation of any type of equipment for interconnection or access to the utility's network elements (or to any collocated telecommunications provider at the utility's premises) at rates, terms and conditions that are just, reasonable, and nondiscriminatory. The collocation requirement would not apply in cases where technical issues or space limitations applied.

Specify that a large, price-regulated telecommunications utility would have to provide each of the following, upon the request of a telecommunications provider, in a manner that is consistent with safety and network reliability standards: (a) cross-connects between the facilities or equipment of collocated telecommunications providers that are the most reasonably direct and efficient, as determined by the collocated telecommunications provider; and (b) cross–connects between the facilities or equipment of a collocated telecommunications provider and the network elements platform or transport facilities of a noncollocated telecommunications provider.

Network Elements. Require a large, price-regulated telecommunications utility to provide network elements on a bundled or unbundled basis, as requested by the telecommunications provider, at any point that the telecommunications provider determines is technically feasible, and in a manner that allows the telecommunications provider to combine the network elements to provide new or existing telecommunications service. Require large, price-regulated telecommunications utilities to provide the network elements at rates, terms and conditions that are just, reasonable, and nondiscriminatory. Specify that a large, price-regulated telecommunications utility may not require a wholesale customer to purchase network elements on an unbundled basis if the utility ordinarily combines the elements to provide service to the utility's own end-user customers, except at the direction of a telecommunications provider requesting the unbundled network elements.

At the direction of a telecommunications provider requesting network elements, require a large, price-regulated telecommunications utility to provide network elements on a bundled or unbundled basis, and to combine any sequence of network elements requested by the telecommunications provider that the utility ordinarily combines for itself. If a telecommunications provider uses the network elements platform of a large, price-regulated telecommunications utility that consists solely of combined network elements and the use is for the purpose of providing telecommunications service to an end-user customer, prohibit the large, price-regulated telecommunications utility from requiring the telecommunications provider to purchase other network elements or retail services of the utility. Specify that a telecommunications provider may order the network elements platform on an "as is" basis for an end-user customer that has received local exchange service from the large, price-regulated telecommunications utility and the telecommunications provider may direct the utility not to change any of the features previously selected by that customer. A large, price-regulated telecommunications utility that provides a network elements platform to a telecommunications provider would be required to provide the platform without any disruption of services to end-user customers.

Compliance Plan. No later than the first day of the 9th month beginning after the general effective date of the budget adjustment act, require the PSC to issue an order establishing a compliance plan for each large, price-regulated telecommunications utility that includes each of the following: (a) standards for the utility to provide nondiscriminatory access (at least equal in quality to the access provided by the utility to itself or to others) to the utility's services and network elements to the utility's wholesale customers; (b) procedures for measuring the large, price-regulated telecommunications utility's compliance with the foregoing standards; and (c) requirements for the utility to make specified monetary payments to a wholesale customer if the utility fails to comply with such standards. Specify that these requirements would apply in addition to any other requirements under an interconnection agreement.

Legislative Council Study

Request the Joint Legislative Council to conduct a study of current law cross subsidization requirements [s. 196.204 of the statutes] and whether any changes to those requirements would promote competition for telecommunications services in rural markets. If the Council conducts the study, request that the findings, conclusions and recommendations be reported to the 2003 Legislature when it convenes.

Conference Committee/Legislature: Delete provision.

5. EXEMPTION FROM HIRING FREEZE FOR CERTAIN VACANT COMMISSION POSITIONS

Senate/Legislature: Exempt 3.0 PR vacant positions at the Commission related to environmental analyses and engineering reviews from the current freeze on hiring staff to fill nonessential positions that the administration directed on November 12, 2001. Stipulate that the Secretary of DOA would be prohibited from lapsing $707,700 PR from the Commission's utility regulation appropriations account (see Item #1) unless the Commission had filled these vacant positions no later than the first day of the sixth month following the general effective date of the budget adjustment act. Specify that if the Commission does not fill these positions by that same date, it would be required to submit a report to the Joint Finance Committee explaining the reasons for not filling the vacancies. The report would be due no later than the first day of the seventh month following the general effective date of the budget adjustment act.

Veto by Governor [F-4]: Delete provision.

[Act 109 Section: 9259(1)]

[Act 109 Vetoed Sections: 9142(1x) and 9259(1)]

6. COGENERATION FACILITY AT THE UNIVERSITY OF WISCONSIN-MADISON

Senate: Prohibit the UW Board of Regents from allowing the construction of a cogeneration facility that provides electric, steam or chilled water services to the University of Wisconsin-Madison on a site adjacent to the University's existing Walnut Street heating plant after July 1, 2004, unless all of the following occur: (a) a public utility that provides electric service to the University [Madison Gas and Electric] or an affiliate of such a public utility, the Board and DOA agree on a plan for allocating the costs of constructing the cogeneration facility between the utility and the University; (b) the utility, the Board and DOA agree on terms and conditions under which the University shall purchase electric, steam or chilled water services from the utility; (c) the utility submits a mutually agreed upon plan to the Commission; (d) the Commission, upon finding the plan reasonable, approves the plan; and (e) construction of the facility would be completed by July 1, 2004.

Stipulate that if the utility submits the plan to the Commission, the utility must simultaneously apply for a certificate of public convenience and necessity for constructing the facility. Require the utility to provide DNR with an engineering plan for the facility at the same time the utility applies for the certificate of public convenience and necessity, rather than 60 days prior to filing the application, as required under current law.

Modify the University's GPR-funded energy costs appropriation to permit the payment from this appropriation of the design and construction costs of the facility allocated to the Board of Regents under the above plan.

Conference Committee/Legislature: Require DOA and the UW Board of Regents to negotiate an agreement with a public utility (or affiliate) that provides electric service to the Madison campus to provide 150 megawatts of electricity, along with steam and chilled water services, to the University in a cost-effective and technically feasible manner no later than July 1, 2004. Stipulate that the agreement would not affect the PSC's review and approval authority with respect to this facility.

Modify the UW's energy costs appropriation to permit its use to pay for the costs of purchasing electricity, steam and chilled water generated by the new facility.

Veto by Governor [F-3]: Delete the July 1, 2004, deadline date by which the cogeneration facility must provide electric, steam and chilled-water services to the University.

[Act 109 Sections: 32on and 9156(2z)]

[Act 109 Vetoed Section: 9156(2z)]

7. SUSPENSION OF TOTAL SERVICE LONG-RUN INCREMENTAL COSTS

Senate: Authorize the Commission to suspend the requirement that each telecommunication service, relevant group of services and basic network function offered or used by a telecommunications utility must be priced to exceed its "total service long-run incremental cost," where the PSC determines that competition exists in a telecommunications market sufficient to justify lesser regulation, and lesser regulation would serve the public interest.

Under current law, total service long-run incremental cost is calculated as the total forward-looking cost, using least cost technology that is reasonably implementable based on currently available technology, of a telecommunications service, relevant group of services, or basic network function that would be avoided if the telecommunications provider had never offered the service, group of services, or basic network function or, alternatively, the total cost that the telecommunications provider would incur if it were to initially offer the service, group of services, or basic network function for the entire current demand, given that the telecommunications provider already produces all of its other services.

Conference Committee/Legislature: Delete provision.

REGULATION AND LICENSING

1. PROGRAM REVENUE LAPSE [LFB Paper 1121]

GPR-REV	$846,300
PR-Lapse	846,300

Governor/Legislature: Lapse $348,500 in 2001-02 and $497,800 in 2002-03 to the general fund from the Department's general operations PR appropriation.

[Act 109 Section: 9259(1)]

2. SCOPE OF PRACTICE OF AN EDUCATIONAL DENTIST'S LICENSE

Joint Finance/Legislature: Modify the current scope of practice provision that limits the holder of an educational dentist's license to the practice of dentistry only within educational facilities and only for the purpose of carrying out the licensee's teaching duties. Provide instead that the licensee would be limited only to the practice of dentistry within educational facilities. The modification would authorize the holder of an educational dentist's license to provide dental services that are not related to the licensee's teaching duties, if the services were provided in a clinical facility associated with the educational institution where the licenseholder practices.

[Act 109 Section: 465t]

3. REGULATION OF BOXING

	Legislature	Veto (Chg. to Leg)	Net Change
PR-REV	- $100	$100	$0

Senate/Legislature: Incorporate the provisions of 2001 Assembly Bill 163, relating to the deregulation of amateur boxing contests and the continuing regulation of professional boxing contests.

Exempt all amateur boxing contests from regulation by the Department and delete the $10 annual fee charged to an amateur boxing club sponsoring such events. Define an amateur boxing contest as a boxing contest in which none of the boxers is compensated for participating in the contest. Authorize individuals to conduct such a contest in Wisconsin only if it is

sanctioned by or conducted under the rules of the national governing body for amateur boxing recognized by the U.S. Olympic Committee.

The Department would retain its current law authority to regulate professional boxing contests, defined as a boxing contest in which one or more of the boxers is compensated for participating in the contest. Estimate reduced amateur boxing fee revenues of $100 annually.

Veto by Governor [E-16]: Delete provision.

[Act 109 Vetoed Sections: 464bb, 464bd and 464bf thru 464cv]

REVENUE

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Conf. Comm./Leg. (Chg. to JFC)	Conf. Comm./Leg. Net Change	Veto (Chg. to Leg.)	Veto Net Change
GPR-Lapse	$0	$0	$0	$0	$2,868,000	$2,863,000
GPR	- $7,019,300	- $830,100	$1,726,300	- $6,123,100	$1,971,800	- $4,151,300

Governor: Reduce the following GPR appropriations by a total of $2,869,100 in 2001-02 and $4,150,200 in 2002-03. These amounts represent 3.5% of total GPR appropriations in 2001-02 and 5.0% of total GPR appropriations in 2002-03.

	Reduction Amount 2001-02	Reduction Amount 2002-03
Collection of Taxes-General Program Operations	-$1,616,300	-$2,362,900
State and Local Finance-General Program Operations	-354,800	-497,400
Administrative Services-General Program Operations	-717,400	-1,032,000
Integrated Tax System Technology	-179,500	-256,400
Expert Professional Services	-1,100	-1,500
Total	-$2,869,100	-$4,150,200

Joint Finance: Reduce the Department's largest GPR state operations appropriation by an additional $830,100. This amount represents an additional 1% reduction in the agency's state

operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Reduce the Department's largest GPR state operations appropriation by an additional $415,000. This amount represents an additional 0.5% reduction in the agency's state GPR operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the agency's other sum certain, state operations appropriations, funded from GPR.

Senate: Include the Joint Finance provision with a modification to restore funding of $852,300 in 2002-03 in DOR's general program operations appropriation for tax collection and specify that the Department must retain 13 agents in its alcohol and tobacco enforcement section at least through July 1, 2003. The Department currently has 13 positions in this section and has indicated that it would delete 10 of these positions in order to manage the across-the-board budget reductions under the bill.

Conference Committee/Legislature: Include Senate provisions and, in addition, provide $874,000 GPR in 2002-03 and require the Department to retain 10 large-case field auditors in New York at least until July 1, 2003.

Veto by Governor [F-5 and F-6]: Modify the across-the-board budget adjustments passed by the Legislature as follows:

a. Delete the required GPR reductions in 2001-02 of $1,616,300 in the collection of taxes general program operations appropriation, of $354,800 in the state and local finance general program operations appropriation, of $717,400 in the administrative services general program operations appropriation, and of $179,500 in the integrated tax system technology appropriation. In his veto message, the Governor indicates that he will request the Secretary of Administration to place in unallotted reserve in fiscal year 2001-02 and lapse to the general fund $190,400 GPR from the collection of taxes general program operations appropriation, $62,800 GPR from the state and local finance general program operations appropriation, $812,300 GPR from the administrative services general program operations appropriation, and $1,802,500 GPR from the integrated tax system technology appropriation.

b. Delete the required reduction of $636,600 GPR in 2002-03 from the collection of taxes general program operations appropriation and write in a required reduction of $1,532,800 GPR (an additional reduction of $896,200 GPR). In addition, delete requirements that the Department retain 13 alcohol and tobacco enforcement agents and 10 large-case field auditors in New York until at least July 1, 2003. In his veto message, the Governor indicates that an additional reduction of $896,200 GPR in 2002-03 would result because of the write-in veto, which would return the Department's overall 2002-03 across-the-board GPR appropriation

reductions to the 5% reduction specified in the Governor's initial budget (exclusive of funds for tax form modifications related to campaign finance reform).

[Act 109 Sections: 9244(1),(2),(3),(4)&(5)]

[Act 109 Vetoed Sections: 9144(1vv)&(1vw) and 9244(1),(2),(3)&(4)]

2. PARTICIPATION IN MULTISTATE TAX COMMISSION AUDIT PROGRAM

PR	$57,400

Assembly: Provide statutory authority for DOR to participate in the Multistate Tax Commission audit program. Provide that fees charged by the Multistate Tax Commission for participation in the program be paid from audit collections resulting from participation in the program. Create a sum-sufficient, program revenue appropriation estimated at $57,400 in 2002-03 for collection amounts necessary to make the fee payments. Provide that amounts collected from program audits in excess of those needed to make fee payments be placed in the general fund.

Under current law, the Department of Revenue has authority to enter into contracts to collect delinquent taxes. A portion of the amount collected is used to pay contract and court costs and the remainder is placed in the general fund. There is no current statutory authority for the Department to participate in the Multistate Tax Commission audit program.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 52Lk and 232m]

3. ADMINISTRATIVE FEE FOR IRS TAX OFFSETS

PR	$60,000

Assembly: Authorize DOR to charge the federal Internal Revenue Service (IRS) an administrative fee of up to $25 for each transaction for offsetting state tax refunds against federal tax obligations. Require that the fee be deducted from the state tax refund offset, and placed in the Department's debt collection appropriation prior to the remaining portion being forwarded to the IRS. Increase expenditure authority in the Department's debt collection appropriation by $60,000 in 2002-03.

Under current law, DOR is authorized to offset against state tax refunds amounts owed for state taxes, debts to state agencies, delinquent child and spousal support and maintenance payments, and municipal and county fines, fees and forfeitures. The Department can enter into

reciprocal agreements with other states to offset against Wisconsin tax refunds amounts owed other states for taxes if the other states agree to offset against their state tax refunds amounts owed Wisconsin for taxes. DOR is also allowed to enter into an agreement with the federal Internal Revenue Service to offset state tax refunds against federal obligations if the IRS offsets federal tax refunds against state tax obligations. The IRS charges DOR a fee of $17.90 for each offset transaction.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 52Li, 232p and 9244(1j)]

4. ELECTRONIC CORRESPONDENCE WITH MANUFACTURERS AND TELECOMMUNICATIONS COMPANIES

Assembly: Permit the Department of Revenue to provide manufacturers and telecommunications companies assessment notices, penalty bills, assessor appeals and determinations in an electronic format.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 157m and 157n]

5. FUNDING FOR MODIFYING TAX FORMS FOR CAMPAIGN FINANCE REFORM PROVISIONS

GPR	$96,500

Conference Committee/Legislature: Provide the Department with $96,500 in 2002-03 to fund the costs of modifying tax forms for items related to campaign finance reform provisions.

[Act 109 Section: 9244(6v)]

SECRETARY OF STATE

1. PROGRAM REVENUE LAPSE

GPR-REV	$3,500
PR-Lapse	3,500

Senate/Legislature: Lapse $3,500 in 2002-03 from the Office of the Secretary of State's program fees appropriation.

[Act 109 Section: 9259(1)]

SHARED REVENUE AND TAX RELIEF

1. SHARED REVENUE MODIFICATIONS [LFB Papers 1235, 1236, 1237 and 1238]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $730,000,000	$136,000,000	- $4,300,000	- $598,300,000
SEG	594,000,000	0	4,300,000	598,300,000
Total	- $136,000,000	$136,000,000	$0	$0

Governor: Make the following modifications to the funding levels, distribution formulas, payment dates and funding sources for shared revenue and related programs:

a. *Funding Levels.* Reduce the combined payments under the shared revenue, expenditure restraint, small municipalities shared revenue (SCIP) and county mandate relief programs as shown in the following table:

	Current Law	Governor's Proposal	Change	Percent Change
2002	$1,029,415,800	$679,415,800	-$350,000,000	-34.0%
2003	1,039,709,900	679,415,800	-360,294,100	-34.7
2004	1,039,709,900	0	-1,039,709,900	-100.0

The proposed funding levels reflect a $350,000,000 annual reduction in 2002 and 2003, the elimination of the 1% increase provided under current law for 2003 (-$10,294,100) and the elimination of all funding for these programs beginning in 2004.

Delete the 1% increase for 2003 in the statutory distribution levels for each of the four affected programs, remove references to the 2003 levels continuing in the future and specify that the statutory distribution levels are subject to the reductions used to save the $350,000,000 annually in 2002 and 2003. Establish a June 30, 2004, sunset for encumbrances and expenditures from the current law appropriations for the four affected programs. Establish a sunset after 2003 for distributions under each of the four affected programs, including all four shared revenue payment components [per capita, aidable revenues, public utility (including payments for spent nuclear fuel storage) and minimum guarantee / maximum growth].

b. *Distribution Formulas.* Establish a formula to reduce 2002 payments determined under the current law distribution formulas by a total of $350,000,000. Apply the reduction to the total amounts otherwise payable for 2002, as determined by DOR, under shared revenue, expenditure restraint, small municipalities shared revenue and county mandate relief.

Reduce the 2002 payment amount determined for each municipality and county by subtracting an amount based on population, as determined by DOR, so that the statewide reduction in 2002 is $350,000,000. Specify that the payment reduction calculated under this procedure cannot exceed a municipality's or county's total 2002 payment. Require DOR to estimate populations using the results of the 2000 federal decennial census. Based on current estimates of 2002 payments and populations, it is estimated that the aid reduction rate would be $39.21 per capita, which would be applied separately to municipal and county payments. Municipalities and counties with current law payments below $39.21 per capita would have their payments eliminated in their entirety.

Specify that total payments in 2003 under the four affected programs for each municipality and county would equal the amount received in 2002, after the aid reductions. Delete the current law provision establishing each municipality's 2003 shared revenue payment at 101% of the amount received in 2002.

Specify that in applying the aid reductions for individual counties and municipalities, DOR should reduce the component parts in the following order: (a) for counties, first reduce county mandate relief and then reduce shared revenue; and (b) for municipalities, first reduce shared revenue, then reduce small municipalities shared revenue and finally reduce expenditure restraint. This prioritization allows the remaining payments to be charged against specific appropriations, but would not affect the total payment amount received by a county or municipality or the timing of the payment [this provision could affect the timing of municipal payments if the use of permanent endowment (tobacco securitization) funds for shared revenue is deleted].

c. *Payment Dates and Funding Sources.* Specify that the first payment of shared revenue and related programs in 2003 would be made on June 30, rather than on the fourth Monday in July. Create an appropriation from the permanent endowment (tobacco securitization) fund to be used to make the July, 2002, and June, 2003, payments of shared revenue and related programs. Repeal this appropriation on July 1, 2003.

Establish the percentage of each county's and municipality's payment in July, 2002, and June, 2003, to be made from the permanent endowment fund as follows:

July, 2002 = ($580,000,000 - endowment funds applied to debt service) ÷ $679,415,800

June, 2003 = (available endowment funds, as determined by DOA) ÷ $679,415,800

Based on the amounts the administration anticipates being available for shared revenue and related payments from the permanent endowment fund ($380,000,000 in 2002 and $214,000,000 in 2003), these formulas would result in 55.93% of 2002 payments being made in July and 31.50% of 2003 payments being made in June. The following table compares the amount and timing of total payments under the four affected programs under current law and the Governor's proposal:

	Current Law	Governor's Proposal
July, 2002	$203,346,870	$380,000,000
November, 2002	826,068,930	299,415,800
Total	$1,029,415,800	$679,415,800
June, 2003		$214,000,000
July, 2003	$205,380,330	
November, 2003	834,329,570	465,415,800
Total	$1,039,709,900	$679,415,800

The funding reduction and shift in funding sources would result in the following appropriation changes in 2002-03: (a) -$730,000,000 GPR (-$350,000,000 from the payment reduction and -$380,000,000 from the shift to the permanent endowment fund); and (b) $594,000,000 SEG from the permanent endowment fund ($380,000,000 for the July, 2002, payment and $214,000,000 for the June, 2003, payment). The following appropriation changes would occur in the 2003-05 biennium, compared to current law: (a) -$574,294,100 GPR in 2003-04 (-$350,000,000 from the payment reduction, -$10,294,100 from the deletion of the 1% increase from 2002 to 2003 and -$214,000,000 from the shift to the permanent endowment fund); and (b) -$1,039,709,900 GPR in 2004-05, when the four affected programs would be eliminated.

Reduce individual appropriations in 2002-03 as follows to reflect the estimated impact of the overall $730,000,000 GPR decrease in that year, based on the reduction priority established under the bill:

Small municipalities shared revenue	-$6,750,100
Expenditure restraint program account	-33,663,800
Shared revenue account	-668,614,700
County mandate relief account	-20,971,400
Total	-$730,000,000

The relative reductions in these appropriations reflect the accounting treatment of the aid reductions under the bill, but do not have an impact on the size of the reductions for individual local governments, which are established under other bill provisions described above.

Joint Finance: Delete the Governor's recommendations regarding shared revenue and related aid programs and, instead, adopt the following:

a. Establish a sunset after 2002 for distributions under the three non-utility components of the shared revenue program (per capita, aidable revenues and minimum guarantee/maximum growth) and the county mandate relief, expenditure restraint and small municipalities shared revenue programs. Establish a December 31, 2003, sunset for encumbrances and expenditures from the current law appropriations for shared revenue and the other three affected programs. Delete references under current law to distributions under these four programs for 2003 and thereafter. Delete the current law provision establishing each municipality's 2003 shared revenue payment at 101% of the amount received in 2002.

b. Create a new, GPR sum sufficient appropriation for county and municipal shared revenue. Specify that the amount distributed under this appropriation would equal $750,000,000 in 2003 and $487,000,000 in 2004 and thereafter, plus any additional amounts determined under "c." Distribute 15% of the aid payments made from this appropriation on the fourth Monday in July and 85% of the aid payments on the third Monday in November.

c. Provide additional funding for county and municipal shared revenue in 2004 by multiplying the amount specified for that year by the lesser of the percentage growth in general fund taxes from 2002-03 to 2003-04, as estimated in the 2003-05 biennial budget act, and the percentage change in the consumer price index for the year ending in June, 2003, plus 1%. For distributions in 2005 and thereafter, provide additional funding for county and municipal shared revenue by multiplying the amount distributed in the prior year by the lesser of the percentage growth in general fund taxes from the fiscal year two years prior to the fiscal year of the distribution to the fiscal year prior to the fiscal year of the distribution and the percentage change in the consumer price index for the year ending in June prior to the year of the distribution plus 1%. For the general fund taxes for the fiscal year prior to the fiscal year of the

distribution use the amount as estimated in either the biennial budget act (first year of the biennium) or the final version of Chapter 20 of the statutes (second year of the biennium).

d. Specify that each county and municipality would receive a payment from the new county and municipal shared revenue appropriation in 2003 based on the actual amounts received by the county or municipality for the 2002 distribution under the four components of shared revenue and the other three programs. Specify that the 2003 amount for each county and municipality would be determined by reducing the 2002 amount by an amount based on population, as determined by DOR, so that the statewide distribution equals the total amount appropriated for 2003. Provide that the 2003 payment calculated under this procedure could not be less than 35% of a county's or municipality's 2002 total payment. Require DOR, in consultation with DOA, to estimate populations using the results of the 2000 federal decennial census. Require DOR to notify counties and municipalities of estimated payments by September 15 of the year preceding the distribution.

e. Modify the public utility aid distribution as follows:

1. *Appropriations.* Create a separate, sum sufficient GPR appropriation for making utility aid payments, beginning with the distribution for 2004.

2. *Distribution Formula.* Sunset the current law formula for distributing utility aid on the basis of net book value and rates of three mills or six mills, effective following payments for 2002. Create a distributional formula, effective with payments for 2004, based on the capacity of light, heat and power production plants as follows: (a) extend payments to municipalities and counties that contain, within their boundaries, light, heat and power production plants used by a light, heat and power company, a qualified wholesale electric company, a wholesale merchant plant or an electric cooperative subject to state license fees imposed under Chapter 76 of the statutes or by municipal electric companies subject to ad valorem payments in lieu of taxes under s. 66.0825(16) of the statutes; (b) exclude property of municipal light, heat and power companies from the payments unless the production plant is located outside the municipality owning the plant; (c) specify that payments be calculated on the basis of total megawatt capacity of eligible production plants within each municipality, as reported by the plant's owner or operator, but distribute two-thirds of each municipal payment to the county where the municipality is located if the municipality is a town and distribute one-third of each municipal payment to the county where the municipality is located if the municipality is a city or village; (d) set municipal payments equal to $2,000,000 if capacity is over 3,000 megawatts, $1,500,000 if capacity is over 2,400, but not more than 3,000, megawatts, $1,300,000 if capacity is over 1,800, but not more than 2,400, megawatts, $1,150,000 if capacity is over 1,300, but not more than 1,800, megawatts, $1,000,000 if capacity is over 800, but not more than 1,300, megawatts, $800,000 if capacity is over 400, but not more than 800, megawatts, $700,000 if capacity is over 300, but not more than 400, megawatts, $500,000 if capacity is over 200, but not more than 300, megawatts, $300,000 if capacity is over 100, but not more than 200, megawatts, $150,000 if capacity is over 50, but not more than 100, megawatts, $50,000 if capacity is over 25, but not more than 50,

megawatts, $25,000 if capacity is over 10, but not more than 25, megawatts, and $10,000 if capacity is 10 megawatts, or less; (e) specify that if a production plant is located in more than one municipality or county, the capacity associated with that plant shall be attributed to the municipality where the majority of the plant is located; however, provide that the resulting municipal payment be divided between the two municipalities based on the net book value of the plant as of December 31, 2003, or as of the date the property becomes operational, whichever is later; and finally, specify that only that portion of a municipal payment that is attributable to the plant that is located in two municipalities be divided, if the municipality to which the capacity is attributable contains more than one production plant; (f) specify that the payment division under (e) shall apply to property that is classified as production plant, under the system of accounts established by the PSC, but which is not an electric generating facility if the net book value of the related facility exceeds $800,000; (g) maintain the current payment structure for substations calculated by multiplying the net book value of the substation by either three or six mills; (h) eliminate aid payments on general structures; (i) retain the per capita payment limits authorized under current law, but increase the limits to $450 for municipalities and $225 for counties in 2004, to $650 for municipalities and $325 for counties in 2005, to $950 for municipalities and $475 for counties in 2006 and to $1,200 for municipalities and $600 for counties in 2007; (j) retain the distribution for nuclear storage facilities, as authorized under current law; (k) specify that in the case of a facility under construction, the megawatts associated with the facility shall be prorated for inclusion in the municipality's capacity based on the percentage of construction completed on December 31 of the prior year, as determined by DOR; and (L) specify that the combined municipal and county payment cannot be less than the amount that would be paid for the plant in 2004 under the current law distribution formula, provided the plant remains in operation.

3. *Incentive Aid.* Beginning in 2004, extend payments to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2003, provided the plant meets three conditions: (a) the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law; (b) the plant must be operating at a total production capacity of at least 50 megawatts; and (c) the plant cannot be nuclear-powered. Set payments equal to the following amounts based on the total megawatt capacity of the new plant: (a) if the plant has a capacity over 600 megawatts, $420,000 each for counties and municipalities; (b) if the plant has a capacity over 400 megawatts, but not more than 600 megawatts, $300,000 each for counties and municipalities; (c) if the plant has a capacity of more than 200 megawatts, but not more than 400 megawatts, $180,000 each for counties and municipalities; (d) if the plant has a capacity over 100 megawatts, but not more than 200 megawatts, $90,000 each for counties and municipalities; and (e) if the plant has a capacity of at least 50 megawatts, but not more than 100 megawatts, $45,000 each for counties and municipalities. Specify that payments would not be made for construction work-in-progress, as under the current law distribution formula. Double the preceding municipal amounts if the production plant is coal-powered.

4. *Payment Structure.* Retain current law provisions with regard to the statement of estimated payments, dates for making payments and percentages of payments.

f. Create an appropriation from the permanent endowment (tobacco securitization) fund to pay a portion of the November, 2002, distribution under the shared revenue, county mandate relief and small municipalities shared revenue programs, using all available endowment funds, as determined by DOA. Estimate expenditures from this appropriation at $594,000,000 SEG in 2002-03. Reduce the amounts paid in November, 2002, from the general fund proportionally to reflect the amounts paid from the permanent endowment fund. Establish the percentage of each county's and municipality's payment in November, 2002, to be made from the permanent endowment fund as follows:

(available endowment funds, as determined by DOA)	÷	$826,068,930

g. Reduce individual appropriations in 2002-03 as follows to reflect the estimated impact of the use of $594,000,000 in permanent endowment funds in that year:

Small municipalities shared revenue	-$6,790,500
Shared revenue account	-574,391,600
County mandate relief	-12,817,900
Total	-$594,000,000

Assembly: Modify the Joint Finance provisions related to reducing payments under shared revenue and the three related programs as follows: (a) increase the minimum guarantee for municipalities from 35% of the 2002 payment amount to 69.58% of the 2002 payment amount; and (b) specify that, notwithstanding the minimum guarantee, no county or municipality could receive a payment in 2003 that exceeds $340 multiplied by the county's or municipality's estimated population for 2002. Modify the Joint Finance provision with respect to utility aid to provide a payment on production plants that were previously exempt from general property taxes because the company was subject to state utility taxes. Extend payments for decommissioned plants to municipalities and counties. Set each municipality's and county's payment equal to a percentage of the aid that was paid for the plant in the last year the plant was exempt from general property taxes less the amount of property taxes paid on the plant for municipal or county purposes in the current year. Set the percentages at 100% in the first year the plant is taxable, 80% in the second year the plant is taxable, 60% in the third year the plant is taxable, 40% in the fourth year the plant is taxable and 20% in the fifth year the plant is taxable. Eliminate the payments for a decommissioned plant in the sixth year the plant is taxable. Provide that these changes regarding aid on decommissioned plants first apply to payments in 2004.

Senate: Maintain current law with regard to the funding levels and distribution formulas, including the distribution formula for public utility aid. Delete provisions adopted by the Joint Finance Committee regarding payment structure that would create an appropriation, estimated at $594,000,000, from the permanent endowment fund to pay a portion

of the November, 2002, distribution under the small municipalities shared revenue, shared revenue and county mandate relief programs and would reduce GPR funding for the small municipalities shared revenue, shared revenue and county mandate relief appropriations by an estimated $594,000,000. Instead, provide for a $594,000,000 transfer from the permanent endowment fund to the general fund in 2002-03.

Conference Committee/Legislature: Adopt the Assembly provisions with the following modifications: (a) delete all changes to 2003 shared revenue and related aid payments, thereby restoring the current law funding levels and distribution mechanisms; (b) delay the conversion to a new aid structure and appropriations from 2003 to 2004 and establish a funding level for 2004 and thereafter at $999,709,900; (c) delete the proposed indexing of the county and municipal aid funding level for 2004 and thereafter; (d) establish a distribution formula for payments in 2004 under which the payments for each municipality and county in 2003 would be reduced by subtracting an amount based on population, as determined by DOR, so that the statewide reduction, relative to payments in 2003, is $40,000,000, prior to any adjustments for consolidation incentive payments; (e) delete the minimum payment guarantees for municipalities and counties and, instead, specify that the payment reduction specified under the distribution mechanism cannot exceed the municipality's or county's total 2003 payment; (f) specify that each municipality's and county's payment in 2005 and each year thereafter equal the amount determined under the population-based reduction formula for 2004, prior to any adjustments for consolidation incentive payments; and (g) delete the creation of a separate utility aid appropriation, a capacity-based distribution formula and aid payments for decommissioned plants.

Establish a program to make consolidation incentive payments, beginning in 2004, to counties and municipalities that agree to consolidate county and/or municipal services. Specify that county and/or municipal governments that are planning to consolidate services must submit a copy of the consolidation agreement to the Department of Revenue by September 1 of the year preceding the consolidation of services in order to be eligible for a payment. Require the agreement to include an estimate of the savings to each affected government from the proposed consolidation. Specify that an agreement to consolidate two or more municipalities qualifies as a consolidation agreement under these provisions. Specify that DOR must review and make a determination on whether a consolidation incentive payment will be made by September 15 and include the approved payments in the September 15 statement of estimated shared revenue payments. Establish the payment amount at 75% of the estimated savings to each county and/or municipality, as reviewed and approved by DOR. Specify that payments for each eligible consolidation of services may only be made for the first year of the consolidation. Specify that if the total amount of approved payments exceeds $45 million, the payments must be prorated so that the total distribution is $45 million. For 2004 and thereafter, require DOR to prorate all other payments from the county and municipal aid account appropriation by an amount equal to the consolidation incentive payments for the year of the payments. Make the consolidation aid payments using the shared revenue payment schedule

and make them from the county and municipal aid account appropriation in 2004 and thereafter.

Recognize estimated interest earnings of $4.3 million in the permanent endowment fund prior to making the November, 2002, payments under the small municipalities shared revenue, shared revenue, and county mandate relief programs (see Item #1, Transfer to Permanent Endowment Fund, under Tobacco Securitization). Reduce individual appropriations in 2002-03 as follows to reflect the estimated increase in interest earnings:

Small municipalities shared revenue	-$49,200
Shared revenue account	-4,158,000
County mandate relief	-92,800
Total	-$4,300,000

The following table shows the total calendar year distributions for shared revenue and the three related programs under current law and each of the stages of the budget process.

Calendar Year Distribution
(In Millions)

	Current Law	Governor	JFC	Assembly	Senate	Conf. Com.
2002	$1,029.4	$679.4	$1,029.4	$1,029.4	$1,029.4	$1,029.4
2003	1,039.7	679.4	750.0	750.0	1,039.7	1,039.7
2004	1,039.7	0.0	515.0*	515.0*	1,039.7	999.7

*These would increase if general fund tax collections increase between 2002-03 and 2003-04.

Veto by Governor [F-7]: Delete provisions in the bill that would have suspended payments under the expenditure restraint program and the utility aid component of the shared revenue program. In addition, delete provisions that would have prohibited moneys from being encumbered or expended from the expenditure restraint and shared revenue appropriations after December 31, 2004. These vetoes have the effect of restoring the aid distributions under the expenditure restraint program and the utility aid component of the shared revenue program in 2004, and thereafter. The shared revenue appropriation would fund payments under the utility aid component, but would not fund payments under any of the other shared revenue components. Because the shared revenue appropriation is authorized on a sum sufficient basis, the utility aid distribution formula will determine the appropriation amount. The Department of Revenue's most recent estimate of the utility aid distribution is $28,752,400 ($14,693,800 for counties and $14,058,600 for municipalities), although the formula could result in a higher or lower distribution in 2004, and in each year thereafter, due to additions or deletions to the amount of qualifying utility value. Funding for expenditure restraint payments will equal $58,145,700 in 2004, and in each year thereafter.

Modify the formula used to calculate county and municipal aid payments in 2004 by deleting cross-references to the utility aid (s. 79.04) and expenditure restraint (s. 79.05) distributions for 2003, from the base year payments used to calculate the $40 million aid reduction. Remove the bill's provision that sets funding for county and municipal aid payments in 2004, and thereafter, at $999,709,900. As a result, the total amount of county and municipal aid in 2004 will be determined through the reduction formula authorized under Act 109.

The partial vetoes have the effect of reducing the total amount of payments used in the base year calculation from $1,039,709,900 under the enrolled bill to $952,811,800 under the Act. The amount of the reduction equals $86,898,100 and is comprised of $58,145,700 in 2003 expenditure restraint payments and $28,752,400 in estimated 2003 utility aid payments . As a result, county and municipal aid payments for 2004 (2004-05) will be set at an estimated $912,811,800 ($952,811,800 - $40,000,000). The following table compares the calculation of base year (2003) aid and county and municipal aid (2004) under the enrolled bill and under the Act:

Calculation of Base Year Aid and 2004 County and Municipal Aid

Program	Enrolled Bill	Act 109
County Shared Revenue	$172,378,300	$157,684,500
Municipal Shared Revenue	776,783,700	762,725,100
Small Municipalities Shared Revenue	11,221,100	11,221,100
Expenditure Restraint	58,145,700	---
County Mandate Relief	21,181,100	21,181,100
2003 Base Year Total	$1,039,709,900	$952,811,800
Less Reduction Amount	-40,000,000	-40,000,000
2004 County and Municipal Aid	$999,709,900	$912,811,800
2004 Expenditure Restraint Aid	0	58,145,700
2004 Utility Aid (Estimated)	0	28,752,400
Total State Aid	$999,709,900	$999,709,900

Although the amount of county and municipal aid will be determined through the reduction mechanism specified in the Act, the Governor's veto message indicates that total state aid will equal $999,709,900 in 2004, the same amount as in the enrolled bill, except for increases or decreases in utility aid.

[Act 109 Sections: 53, 55b, 56, 59, 60, 82, 83, 234b thru 244f, 252 thru 257, 9259(8) and 9459(2)]

[Act 109 Vetoed Sections: 54, 55, 234, 234b, 244d and 245 thru 251]

2. COUNTY AND MUNICIPAL OPERATING LEVY LIMIT [LFB Paper 1239]

Governor: Prohibit any political subdivision, defined as a city, village, town or county, whose total property tax levy rate is greater than or equal to one mill ($1 per $1,000 of value), from increasing its operating levy in each year by a percentage that exceeds the sum of: (a) the percentage increase in inflation from June of the preceding year to June of the current year; and (b) the percentage increase in population in the political subdivision from the preceding year to the current year.

Define "operating levy" as the total political subdivision levy minus any portion of the total levy attributable to the political subdivision's levy for debt service on loans provided to the political subdivision by the Board of Commissioners of Public Lands or bonds or promissory notes issued by the political subdivision, less any revenues that abate the debt service levy. Specify that the "total levy rate" equals the total levy divided by the equalized value of the political subdivision, exclusive of any tax incremental district value increment. Specify that, for the purpose of this provision, "inflation" is the percentage change in the U.S. Bureau of Labor Statistics consumer price index for Milwaukee and Racine, all items, all urban consumers, or its successor index. Specify that "population" means the number of persons residing in the political subdivision, as determined by DOA under current law provisions.

Specify that the levy limit shall be adjusted, as determined by DOR, as follows: (a) if a political subdivision transfers to another governmental unit responsibility for providing any service that the political subdivision provided in the preceding year, the levy increase limit otherwise applicable to the political subdivision is decreased to reflect the cost that the political subdivision would have incurred to provide the service; or (b) if a political subdivision increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit in any year, the levy increase limit otherwise applicable to the political subdivision in the current year is increased to reflect the cost of that service.

Require DOR, not later than August 15 of each year, to notify every political subdivision of the increase in inflation and population that applies to the political subdivision.

Create a procedure under which a political subdivision may exceed its operating levy limit if the governing body of the political subdivision adopts a resolution to that effect and the electors of the political subdivision approve the resolution in a referendum. Specify that the resolution adopted by the governing body shall specify the operating levy and the percentage increase in the levy that the governing body wishes to impose. Require the governing body, in the event it adopts such a resolution, to call a special election for the purpose of submitting the resolution to the electors for a referendum on approval or rejection, or, in lieu of a special election, allow the governing body to specify that the referendum be held at the next succeeding spring primary or election or September primary or general election to be held not earlier than

42 days after the adoption of the resolution by the governing body. Require the governing body to file the resolution to be submitted to the electors according to current law requirements for referenda petitions or questions.

Specify that the question submitted at the referendum shall be as follows: "Under state law, the operating levy increase for the [name of political subdivision], for the tax to be imposed for the year [year], is limited to [percentage limit calculated for the political subdivision]% that results in an operating levy of $….. Notwithstanding the operating levy increase limit, shall the [name of political subdivision] be allowed to exceed this operating levy increase limit such that the operating levy increase for the year [year] will be [the amount specified in the governing body's resolution]% that results in an operating levy of $….?"

Specify that, if such a resolution is approved by the majority of those voting on the question, the political subdivision may exceed the operating levy increase limit otherwise applicable to it in that year, but that the operating levy increase may not exceed the percentage approved in the referendum. Specify that the operating levy that results from approval of the referendum shall be the base levy to which the levy limit is applied in the following year.

Require the clerk of the political subdivision in which such a referendum is held to certify the results of the referendum to DOR, immediately after expiration of the time allowed to file a petition for a recount. Specify that, if a petition for a recount is filed, the clerk shall make this certification immediately after the recount has been completed and the time allowed for filing an appeal has passed or, if appealed, immediately after the appeal is decided.

Specify that the operating levy limit calculated under these provisions does not apply to any county in which that levy exceeds the operating levy that the county may impose under current law county levy rate limit provisions. Specify that the limit imposed under these provisions does not apply to any increase in a political subdivision's operating levy that results from complying with a court order.

Specify that these provisions first apply to property tax assessments as of January 1, 2002.

Joint Finance: Modify the Governor's recommendation as follows:

a. Change the definition of "inflation" to mean a percentage equal to the average, annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor, for the 12 months ending on September 30 of the year of the levy. Modify the date by which DOR would notify political subdivisions from August 15 to November 1. [This is the same measure used for the expenditure restraint program.]

b. Replace the municipal adjustment to the inflation measure based on population with an adjustment set at a percentage equal to 60% of the percentage change in the

jurisdiction's equalized value due to new construction, less improvements removed, between the year before the year of the levy and the previous year, but not less than 0% nor greater than 2%. [This is the same measure used for the expenditure restraint program.]

c. Authorize an adjustment to the allowable increase calculated for each county and municipality equal to 50% of the difference between the prior year's allowable and adopted levy.

Assembly: Repeal the county operating tax rate limit authorized under current law, effective with taxes levied in 2002 (payable in 2003). Modify the Governor's recommendation regarding the operating levy limit by deleting language that provides that the more restrictive of the two limits would apply to counties. Increase the total property tax levy rate below which municipalities would not be subject to the limitation on operating levies from 1 mill to 2.5 mills. Under the Governor's proposal, the operating levy limit would not extend to municipalities and counties with total mill rates below 1 mill. This provision would increase that threshold to 2.5 mills only for municipalities.

Senate/Legislature: Delete provision.

3. WAIVER FROM STATE-IMPOSED MANDATES ON LOCAL GOVERNMENTS [LFB Paper 1240]

Governor: Specify that a political subdivision, defined as a city, village, town or county, may file a request with the Department of Revenue for a waiver from a state mandate, except for a state mandate related to health or safety. Define a "state mandate" as a state law that requires a political subdivision to engage in an activity or provide a service or to increase the level of its activities or services. Require the political subdivision, in such a request, to specify its reason for requesting the waiver.

Require DOR, upon receiving a request for a waiver, to forward the request to the administrative agency that is responsible for administering the state mandate. Require the administrative agency to determine whether to grant the waiver and notify the political subdivision and DOR of its decision in writing. Require DOR to determine whether to grant a waiver for a state mandate if there is no state agency responsible for administering the mandate and require the Department to notify the political subdivision of its decision in writing. Authorize administrative agencies and DOR to grant such waivers. Specify that a waiver granted from a state mandate is effective for four years and that the administrative agency, or DOR in the case of waivers granted by DOR, may renew the waiver for additional four-year periods.

Require DOR, by July 1, 2004, to submit a report to the Governor and the appropriate standing committees of the Legislature specifying the number of state mandate waivers

requested, a description of each waiver request, the reason given for each waiver request and the financial effects on the political subdivision of each waiver that was granted.

Assembly: Modify the Governor's recommendation as follows. Require the Secretary of DOR or the head of the administrative agency assigned the review of the mandate to either grant the request, grant the request in part, or deny the request within 60 days of its receipt by DOR. Specify that the decision of the Secretary or the other agency head be based on at least one of the following criteria: (a) compliance with the mandate would cause undue economic hardship to the political subdivision; (b) compliance with the mandate is not economically efficient; or (c) the mandate is not applicable to the political subdivision other than imposing reporting requirements. Create a Joint Committee on Mandates in the Legislature consisting of five senators and five representatives to the assembly appointed as are the members of standing committees in their respective houses from the majority and minority political parties in each house. (Under current law, each house would designate a cochairperson.) Provide that the committee shall meet at the call of one of its cochairpersons. Require the DOR Secretary or the head of the administrative agency reviewing the mandate to notify the Committee if the Secretary or the other agency head grants a request for relief, either in whole or in part. Provide that the Committee has 30 days to approve or reject the administrative agency's action, but authorize the Committee to extend the review period by an additional 30 days, but no more. Provide that the relief request is approved if the Committee fails to meet or meets and takes no action. Modify the Governor's recommendation regarding notification of the political subdivision to delay the notice until after the Committee's action.

Senate/Legislature: Include Governor's recommendation.

[Act 109 Section: 151]

4. REQUIREMENT FOR FREE LIBRARY SERVICES

Assembly: Repeal the current law requirement that municipal libraries, consolidated county libraries and county library services shall be free for the use of the inhabitants of the municipality or county by which it is established and maintained, subject to reasonable regulations prescribed by the library's board.

Senate/Legislature: Delete provision.

5. ELECTRONIC SUBMISSION OF STATE REPORTS

Assembly: Require each head of a department or independent agency to post a copy of any form prescribed by the department or independent agency by any local governmental unit on the internet and to allow any local governmental unit to file any report with the department

or independent agency in electronic format unless otherwise prescribed by law. Require the Department of Electronic Government to prescribe uniform technical standards for use, unless otherwise provided by law, by local governmental units in submitting reports to agencies, whenever such reports are authorized or required to be electronically submitted.

Senate/Legislature: Delete provision.

6. MULTIPLE-PART CARBONLESS FORMS

Assembly: Specify that if any person is required to submit a form to a state agency or political subdivision of the state that is composed of multiple-part carbonless copies, that the requirement is met if the person submits the number of copies required without using multiple-part carbonless paper.

Senate/Legislature: Delete provision.

7. COUNTY FINANCIAL REPORTS

Assembly: Establish June 30th of each year, instead of May 1st, as the date by which county governments must file annual financial reports with the state. Repeal the current law provision that allows counties to request a 15-day extension for the report filed with the Department of Revenue.

Senate/Legislature: Delete provision.

8. TESTING OF WATER SUPPLIES

Assembly: Specify that if DNR requires the operator of a water treatment plant or a public drinking fountain to have the water tested, the Department may not require that the tests be conducted by the State Laboratory of Hygiene.

Senate/Legislature: Delete provision.

9. PROPERTY TAX EXEMPTION REPORTING REQUIREMENT

Assembly: Repeal the current law requirements relating to biennial property tax exemption reports, with regard to reports filed by property owners, clerks of taxation districts and the Department of Revenue, effective with reports due in 2002. In each even-numbered year, property owners are required to file the reports by March 15 with the municipality where

the property is located. The municipality's clerk combines the reported data and submits a report for the municipality with DOR, which tabulates the data and summarizes it in the Summary of Tax Exemption Devices. The Summary is published as one of the Governor's budget documents.

Senate/Legislature: Delete provision.

10. IMMUNITY FROM LIABILITY FOR LOCAL GOVERNMENTS FOR DAMAGES RESULTING FROM HIGHWAY DEFECTS

Assembly: Delete a statutory provision that gives a person the right to recover damages, not exceeding $50,000, from a town, village or city if the damages happened to the person or his or her property by reason of the insufficiency or want of repairs of any highway that the local government is bound to keep in repair. Delete a similar provision that allows not more than $50,000 in damages to be recovered from a county if the damages happened by reason of the insufficiency or want of repairs of any highway that the county is bound to keep in repair by law or by agreement with any town, city or village or which occupies any land that is owned and controlled by the county. Delete a related provision that: (a) establishes the primary liability of a person or private corporation if the person's or private corporation's wrong, default or negligence resulted in damages to any person or property by reason of any defect in any highway or other public ground; and (b) establishes the procedure to be used for assessing damages when it is determined that such a person or private corporation has primary liability and a town, city, village or county is secondarily liable.

Senate/Legislature: Delete provision.

11. LOCAL FIRE PROTECTION AND EMERGENCY SERVICES

Assembly: Provide villages or towns the authority to provide fire protection services utilizing a fire company that is organized as a business corporation or a nonstock corporation under the statutes. Specify that an agreement between a municipality of this state and a municipality of another state that relates to the receipt, furnishing or joint exercise of fire fighting or emergency medical services would not have to be submitted or approved by the state attorney general before the agreement may take effect, as is required for similar agreements under current law.

Senate: Delete provision.

Conference Committee/Legislature: Modify provision by deleting the part that would allow villages or towns to provide fire protection services using a fire company organized as a business corporation or nonstick corporation.

[Act 109 Sections: 151n and 151nb]

12. CONSOLIDATION OF MUNICIPALITIES TO FORM A TOWN

Assembly: Modify current law provisions regarding consolidation of a town, village or city with a contiguous town, village or city in cases where two or more towns seek to consolidate as a town or where a town or towns seek to consolidate with a village or city as a town. Exempt proposed consolidations in such instances from the current law provisions that require DOA and the circuit court to find that the consolidation is in the public interest and that the circuit court refer the consolidation to DOA for review. Current law provisions would be retained that require a two-thirds vote of all members of each board or council and a ratification of the proposed consolidation in a referendum held in each municipality.

Senate/Legislature: Delete provision.

13. INCENTIVE AID FOR MUNICIPALITIES WHERE CONSOLIDATIONS AND ANNEXATIONS OCCUR

Senate: Create a sum certain, GPR appropriation to make consolidation and annexation aid payments, beginning in 2004. Provide that municipalities that consolidate shall receive an aid payment in each of the three years following the date the consolidation is certified. Provide that a town from which territory is annexed shall receive an aid payment in each of the three years following the date the annexation takes effect. Require DOR to promulgate rules to administer these aid payments.

Conference Committee/Legislature: Delete provision.

14. DIRECT ANNEXATION OF CERTAIN TOWNS OR TERRITORY IN TOWNS

Senate: Authorize cities and villages to annex a contiguous town or contiguous territory in a town if approved by an ordinance adopted by two-thirds vote of the members-elect of the city or village governing body and if the following conditions are met: (a) the boundary of the territory to be annexed is contiguous to one or more cities or villages for at least 95% of its length, excluding areas that border on water or on land whose condition prohibits development, except that such excluded areas of the border may not exceed 33% of the length of the boundary of the territory that is sought to be annexed; (b) the annexing city or village is

contiguous to more than 50% of the length of the territory to be annexed; (c) the annexing city or village is capable of providing public services to the territory to be annexed at a level that at least equals the level of service that is being provided by the town; (d) the annexation of the territory will reduce any existing problems of duplicative public services being provided within the same area by more than one municipality; (e) the territory to be annexed has an area of less than ten square miles and is located in a county with a population of at least 300,000; and (f) the annexation ordinance contains a legal description of the territory annexed and the name of the town from which the territory is annexed.

Require the city or village clerk to file the following documents with the Secretary of State upon enactment of an ordinance: (a) eight certified copies of the ordinance; (b) eight copies of a scale map that includes a graphic scale on its face and that accurately reflects the legal description of the property to be annexed and the boundary of the annexing city or village; and (c) eight copies of a plat that shows the boundaries of the city or village, including the annexed territory. Within ten days of receiving the documents, require the Secretary of State to distribute two sets of the three documents to the Department of Transportation and one set of the three documents each to the Departments of Administration, Natural Resources, Revenue and Public Instruction and the clerk of the town from which the territory is to be annexed.

Authorize annexations that occur under these provisions to be contested under current law provisions related to annexations initiated by electors and property owners. Specify that public services include police and fire protection; sewer and water treatment; stormwater treatment; building, health and fire prevention inspections; planning; and public works services. Provide that an annexation ordinance adopted under these provisions takes effect on the first day of the second month after it is enacted.

Conference Committee/Legislature: Include the provision with the following modifications. Specify that the annexation procedures established under the provision need not comply with current law provisions relating to the annexation of and creation of town islands. Specify that the annexation procedures established under the provision do not apply after December 31, 2003. Modify the conditions that must exist before an annexation occurs as follows: (a) under the condition relating to the population of the county in which the annexation occurs, increase the population threshold for the county from 300,000 to 425,000; (b) under the condition requiring the annexing city or village to be contiguous to more than 50% of the length of the territory to be annexed, clarify that the length of the territory means the length of the territory's boundary; and (c) under the condition requiring 95% of the territory's length to be contiguous to one or more cities or villages, exclusive of areas that border on water or on undevelopable land, remove the language that limits the exclusion to 33% of the length of the boundary of the territory to be annexed. Under this change, at least 95% of the boundary of the territory to be annexed must be contiguous to one or more cities or villages, but in calculating the 95% threshold, all areas that border on water or on land whose condition prohibits development are excluded.

Veto by Governor [F-9]: Delete provision.

[Act 109 Vetoed Section: 151e]

15. CONFER VILLAGE BOARD POWERS ON TOWN BOARDS

Assembly: Modify the current law provision that authorizes a town board to exercise the powers of a village board by removing the condition that the authorization be approved at an annual or special town meeting. While town boards may exercise the powers of village boards, current law limits that authority to powers that do not conflict with other statutory provisions relating to towns and town boards.

Senate/Legislature: Delete provision.

16. FILING REQUIREMENT FOR PROPERTY THAT BECOMES EXEMPT

Assembly: Modify the current law provision under which owners of property that was taxable, but which becomes eligible for exemption are required to file a form prescribed by DOR with the municipality where the property is located. Delay the filing deadline from March 1 to December 31 if the property's owner is an entity organized under section 501 (3)(c) of the Internal Revenue Code, effective with property assessed as of January 1, 2002 (forms due by March 1, 2002). Extend the filing deadline for forms due by March 1, 2001, to December 21, 2001, without regard to the entity owning the property.

Senate/Legislature: Delete provision.

17. HOMESTEAD TAX CREDIT AND FARMLAND PRESERVATION TAX CREDIT -- EXCLUSION OF INTEREST INCOME FROM SALE OF HOME

Assembly: Exclude from the definition of income under the homestead tax credit and farmland tax relief credit programs the amount of interest income received from the installment sale of business, farm or rental real property, which includes a claimant's former homestead, up to the amount of interest that is paid by the claimant on a mortgage used for the purchase of another homestead. Specify that this change would first apply to claims filed for the credits for taxable years beginning on January 1 of the year the bill takes effect, except that if the bill takes effect after July 31, specify that this change would first apply to claims filed for taxable years beginning on January 1 of the year following the bill's effective date.

Senate/Legislature: Delete provision.

18. DEFINITION OF AGRICULTURAL LAND

Senate: Modify the definition of agricultural land to include all land, exclusive of buildings and improvements, that is devoted primarily to an agricultural use, as defined by rule, and is located on a farm where the owner or operator has filed a form, as required below. Define a farm as any establishment engaged in crop production or animal production, as set forth in the North American Industry Classification System, 1997 edition, from which $3,500 or more of agricultural products were sold or would normally be sold during the year. Specify that payments-in-kind received for placing land in federal programs be credited toward the income threshold. Define crop production to include growing sod, Christmas trees and ginseng, but to exclude growing nursery product and stock. Specify that a farm may include leased land, if that land is devoted primarily to an agricultural use.

Provide that the form, specified above, include a description of all land owned or leased that is part of the farm and a statement whereby the owner or lessee certifies that $3,500 or more of agricultural products were sold during the preceding year or are likely to be sold in the current year. Specify that the amount of agricultural products sold is to be measured on a per farm basis, regardless of the number of municipalities where the land is located. Require the form to be filed by the property owner or lessee with the assessor where the property is located, on or before March 1, beginning in 2003. Specify that owners or lessees are not required to file forms in subsequent years unless additional agricultural land is acquired or leased. Require owners or lessees of property classified as agricultural land to notify the clerk of the municipality where the property is located when the property no longer meets the definition of agricultural land. Provide that if owners or lessees of agricultural land fail to notify the clerk of property that no longer meets the definition of agricultural land, the difference between that property's value as agricultural land and its value in another class shall be treated as omitted property and the penalty for converting agricultural land shall be imposed from the date that the property no longer met the definition of agricultural land. Exempt property that is reclassified for the 2003 assessment year as a result of the change in the definition of agricultural land from the penalty for converting agricultural land to another use.

Provide that "Other" property be defined as agricultural buildings and improvements and the land necessary for their location and convenience. Authorize the Department of Revenue to promulgate rules regarding these provisions and require the Department to prescribe the form on which owners and operators report the land included on their farm and the amount of agricultural products sold and payments received.

Provide that these provisions first apply to property assessed as of January 1, 2003.

Under current law, agricultural land is defined as land, exclusive of buildings and improvements, that is devoted primarily to an agricultural use, as defined by rule. This provision would modify the definitions of "agricultural land" and "other" property. The definition for other property is identical to that specified by DOR in its Property Assessment

Manual. The definition for agricultural land is based on definitions employed under the North American Industrial Classification System and by the U.S. Department of Agriculture. To be classified as agricultural land, the property would have to be located on farms and a reporting requirement would be imposed on farm operators, requiring them to identify the land included in their farm and to certify that $3,500 or more of agricultural products were sold in the preceding year or are likely to be sold in the current year. Payments received for land enrolled in the federal conservation reserve or conservation reserve enhancement programs would be counted toward the minimum income limit. This provision would allow assessors to group multiple parcels together by farm operation for purposes of applying the requirement pertaining to the amount of agricultural products sold. It would also allow assessors to track changes in the parcels included in each farm. The size of a farm may change from year to year because farmers lease land for their operation.

This provision would cause some land to be reclassified from agricultural to another class. That land would be exempt from the penalty for land converted from an agricultural use. Agricultural land that is reclassified would be almost certain to have a higher value after its reclassification. As a result, the taxes on that property would be higher, as property taxes are shifted from other property to the reclassified property. Also, state forestry tax collections would increase by an unknown amount.

Conference Committee/Legislature: Modify the provision as follows: (a) delete the provision that excludes growing nursery product and stock from the definition of crop production (as a result, that activity would qualify for use value treatment); (b) delete the $3,500 income threshold and the provision that requires the form that identifies the land included on each farm to also include a statement whereby the owner or lessee certifies that $3,500 or more of agricultural products were sold during the preceding year or are likely to be sold in the current year; (c) include a provision whereby persons that fail to file the form identifying the land included on the person's farm could have the land classified as agricultural land if the person appeals the land's classification to the board of review or files a claim for the recovery of unlawful taxes with the taxation district, provided the board of review or local governing body determines that the land meets the definition of agricultural land; and (d) modify the definition of "other" to include any residence on the farm of a spouse, child, parent or grandparent of the farm operator.

Veto by Governor [F-8]: Delete the provisions related to the definition of agricultural land that would require agricultural land to be located on a farm and that would require owners or lessees to file a form identifying agricultural land. As a result, state law will continue to define agricultural land as land exclusive of buildings and improvements that is devoted primarily to agricultural use, as defined by rule. However, the Act amends this definition by specifying that the land necessary for the location and convenience of buildings and improvements is excluded from the definition of agricultural property, just as buildings and improvements have been excluded in the past.

Delete the provision related to the definition of "other" property that would specify that buildings and improvements be located on farms. The remaining provisions in the enrolled bill related to the definition of "other" property are retained. Previously, the definition for "other" property has been provided through administrative rule, rather than the state statutes.

[Act 109 Sections: 156b, 156d and 9344(1m)]

[Act 109 Vetoed Sections: 156b, 156d, 156e, 9144(1m) and 9344(1m)]

19. PENALTY FOR AGRICULTURAL LAND CONVERTED TO OTHER USES

Senate: Modify the current law provisions relating to the penalty on agricultural land that is converted to other uses as follows: (a) delete the requirement that municipalities administer the penalty and, instead, require the county where the land is located to administer the penalty; (b) provide that a uniform penalty be extended within each county on a per acre basis; (c) require DOR to annually determine the penalty within each county as an amount equal to the difference between the Department's estimate of the average, per acre fair market value of agricultural land sold in the county in the previous year and the average, per acre equalized value of agricultural land in the county in the previous year, multiplied by 5% if the conversion is of more than 30 acres, 7.5% if the conversion is of 10 to 30 acres or 10% if the conversion is of less than 10 acres; (d) specify that the penalty be waived if the amount calculated is less than $25 per acre; and (e) replace the provision that requires the penalty to be shared with overlying taxing jurisdictions and, instead, specify that the county retain 50% of the penalty and disburse the remainder of the penalty to the municipality where the property is located. Require the municipality to share 50% of its proceeds from the penalty with an adjoining municipality, if the municipality where the property is located has annexed the property subject to the penalty from the adjoining municipality in either of the two preceding years. Require DOR to calculate the fair market value of agricultural land from sales of agricultural property of 38 acres or more where the buyer intends to continue the property's agricultural use.

Require the county treasurer to impose the penalty if the treasurer of the county where the property is located determines that the property has been converted to another use. Provide that agricultural land would be considered to have been converted to another use if the property is used in a way where it would not be classified as agricultural land for property tax purposes. Permit the county treasurer to defer the penalty if the owner of the property can demonstrate that the property will be employed in agricultural use for purposes of property taxation in the succeeding year. Require the treasurer to waive the penalty if the property is classified as agricultural property in the succeeding year. Provide that if the county treasurer has granted a deferral and the property is not classified as agricultural property in the succeeding year, interest on the penalty shall be imposed at a rate of 1% per month, or a fraction of a month, from the date that the deferral was granted until the penalty is paid. Provide that

penalties are payable within 30 days of when they are imposed and that amounts not paid shall be considered delinquent, shall bear interest at the rate of 1% per month, or fraction of a month, and shall be collected as a special charge under current law provisions. Modify the current law provision that requires sellers to notify buyers when land has been assessed as agricultural land to also require sellers to provide notice if the land is subject to a penalty or if a penalty has been deferred. Require municipal assessors to inform the treasurer and real property lister of the overlying county of all sales of agricultural land located in the county. Specify that these provisions would first apply to penalties imposed beginning on January 1, 2003.

Under current law, a penalty is assessed against the owner of agricultural land that is converted to another use. The penalty equals the difference between the property taxes that would have been levied on the land if it had been assessed at its fair market value and the property taxes that were actually levied on the property for the last two years that the property qualified for use value assessment. The municipality where the property is located is responsible for collecting the penalty, and the proceeds are shared with the overlying taxing jurisdictions in proportion to the taxes that they levied on the land during the two years covered by the penalty. Owners of agricultural land that is sold are required to notify the buyers that the land is assessed under use value provisions.

Conference Committee/Legislature: Modify the provision to exclude conversions from the penalty if the land is converted from an agricultural use to a use where it would be classified for property tax purposes under the other, productive forest land or swamp or waste classifications.

[Act 109 Sections: 233ab, 233ad and 9344(1m)]

20. IMPACT FEES

Senate: Extend the authority to impose impact fees to school districts and repeal the current law provision that excludes facilities owned by school districts from the definition of public facilities for which impact fees may be imposed. Authorize political subdivisions and school districts to recover through impact fees the costs of purchasing public facilities, conducting a public facilities needs assessment and of preparing an impact fee ordinance, and repeal the current law provision that excludes other noncapital costs and equipment costs from the costs that may be recovered through impact fees. Expand the definition of "public facilities" by converting the current law listing of types of public facilities for which impact fees can be imposed to examples of the types of eligible public facilities (this would be accomplished by replacing the word "means" with the word "includes") and by including athletic fields, fire fighting apparatus and public school facilities in the list of examples of the types of eligible public facilities.

Repeal the current law provisions that: (a) prohibit counties from imposing impact fees to recover costs related to transportation projects and that exclude county highways, other transportation facilities and traffic control devices from the definition of public facilities for which counties may impose impact fees; (b) limit the imposition of impact fees to fees extended under the impact fee statute and that require the amount of impact fees imposed by a political subdivision to be reduced by the amount of other costs of public facilities imposed on developers by the political subdivision; and (c) prohibit impact fees from exceeding the proportionate share of the capital costs that are required to serve land development and from including amounts necessary to address existing deficiencies in public facilities.

Conference Committee/Legislature: Delete provision.

21. LOCAL SUBDIVISION REGULATIONS

Senate/Legislature: Modify current law provisions regarding the regulation of subdivisions by municipalities, towns or counties to authorize municipalities (defined as incorporated cities and villages) to require a person, as a condition of obtaining approval of a land division, to dedicate land or pay fees to fund the acquisition of land or the construction of public improvements or facilities for any of the general purposes described for subdivision regulation. Specify that the fees must bear a rational relationship to the need for land, improvements or facilities that are necessary to serve the land division.

Veto by Governor [F-10]: Delete provision.

[Act 109 Vetoed Section: 367e]

22. DANE COUNTY REGIONAL PLANNING COMMISSION

Senate: Repeal the 1999 Act 9 provision that dissolves the Dane County Regional Planning Commission on October 1, 2002.

Conference Committee/Legislature: Modify the 1999 Act 9 provision that dissolves the Dane County Regional Planning Commission by delaying the October 1, 2002, dissolution until October 1, 2004.

[Act 109 Section: 1157s]

23. PREMIER RESORT AREA -- CITY OF BAYFIELD

Senate/Legislature: Exempt the City of Bayfield from the current law requirement that at least 40% of the equalized assessed value of taxable property within the political subdivision must be used by specified tourism-related retailers in order for the political subdivision to enact an ordinance declaring itself a premier resort area.

[Act 109 Sections: 153s and 153t]

STATE FAIR PARK

1. PROGRAM REVENUE LAPSE [LFB Paper 1121]

GPR-REV	$1,085,600
PR-Lapse	1,085,600

Governor: Lapse $447,000 in 2001-02 and $638,600 in 2002-03 to the general fund from the Board's state fair operations PR appropriation.

Assembly: Delete provision.

Senate: Include the Governor's recommendation. In addition, increase the lapse by an additional $68,000 in 2002-03, which represents an additional 0.5% of the general operations PR appropriation.

Conference Committee/Legislature: Include the Governor's recommendation only.

[Act 109 Section: 9259(1)]

STATE TREASURER

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $3,000	- $300	- $100	- $3,700

Governor: Reduce the State Treasurer's Office supplemental GPR appropriation for the operation of the college tuition and expenses program by $1,900 in 2001-02 and $1,400 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the Office's supplemental GPR appropriation for the operation of the college tuition and expenses program by an additional $300. This amount represents an additional 1% reduction in that state operations appropriation in 2002-03.

Assembly/Legislature: Reduce the Office's supplemental GPR appropriation for the operations of the college tuition and expenses program by an additional $100. This amount represents an additional 0.5% reduction in that state operations appropriation in 2002-03.

[Act 109 Section: 9253(1)]

2. GIFT CERTIFICATES -- UNCLAIMED PROPERTY TREATMENT

Assembly: Modify the statutory provisions relating to the transfer of unclaimed property to the state after five years of presumed abandonment to delete gift certificates from the list of intangible property items covered under the transfer provision. Provide that this change would not apply to any such property transferred to the State Treasurer prior to the effective date of this provision. Under this change, businesses would no longer have to track the sale of gift certificates and would no longer have to transfer the credits for any unclaimed gift certificates that are presumed to be abandoned to the state. The fiscal impact of this change on the level of unclaimed property escheating to the state is unknown.

Senate: Include provision similar to Assembly provision. In addition, include a general statutory provision under Department of Agriculture, Trade and Consumer Protection (DATCP) regulations that no person engaged in the selling of goods or services may sell a gift certificate for which the period of validity is less than two years. Provide that DATCP may commence an action to restrain the violation of this prohibited practice and to recover the

reasonable and necessary costs of investigation and prosecution of such prohibited practice. Specify that this new prohibited trade practice be first effective on the first day of the fourth month following the publication of the act.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 343m, 343q and 9153(1k)]

3. REPAYMENT OF EDVEST GPR STARTUP FUNDING

GPR-REV	$843,000

Conference Committee/Legislature: Increase GPR-Earned in 2001-02 by $843,000 to reflect the earlier than expected repayment of GPR funding provided for the startup of the college tuition and expenses program and the college savings program (also known as the EdVest I and Edvest II programs).

SUPREME COURT

1. ACROSS-THE-BOARD BUDGET REDUCTIONS

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$0	$3,742,500	- $1,366,600	$2,375,900
GPR	- $596,200	$596,200	$0	$0

Governor: Reduce the following GPR appropriations by a total of $245,500 in 2001-02, and $350,700 in 2002-03. These amounts represent 3.5% of the appropriations in 2001-02 and 5.0% in 2002-03.

	Reduction Amount 2001-02	2002-03
Director State Courts General Program Operations	-$181,200	-$258,800
Law Library General Program Operations	-64,300	-91,900
Total	-$245,500	-$350,700

Joint Finance: Modify the provision to require the Chief Justice of the Supreme Court to take actions during 2001-03 to ensure that, from GPR state operations appropriations under the Circuit Courts, the Court of Appeals and the Supreme Court, a total of $3,742,500 is lapsed to the general fund. This lapse amount is equivalent to the sum of: (a) a 3.5% reduction in 2001-02 and a 6.0% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations; and (b) a 5.0% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court sum sufficient court operations appropriations.

Assembly: Include the Joint Finance provision except increase the GPR lapse by $342,700 to provide an additional lapse equivalent to the sum of a 0.5% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court GPR state operations appropriations.

Senate: Modify Joint Finance to reduce the required lapse to the general fund during 2001-03 from GPR state operations appropriations under the Circuit Courts, Court of Appeals and Supreme Court, from a total of $3,742,500 to $666,300. This lapse amount is equivalent to a 3.5% reduction in 2001-02 and a 6.0% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations.

Conference Committee/Legislature: Modify Joint Finance to require the Chief Justice of the Supreme Court to take actions during 2001-03 to ensure that, from GPR state operations appropriations under the Circuit Courts, the Court of Appeals and the Supreme Court, a total of $2,375,900 is lapsed to the general fund. This lapse amount is equivalent to the sum of: (a) a 3.5% reduction in 2001-02 and a 6.25% reduction in 2002-03 to the Director of State Courts and Law Library general program operations appropriations; and (b) a 2.75% reduction in 2002-03 to the Circuit Courts, Court of Appeals and Supreme Court sum sufficient court operations appropriations.

[Act 109 Section: 9247(2z)]

TECHNOLOGY FOR EDUCATIONAL ACHIEVEMENT IN WISCONSIN BOARD

1. ACROSS-THE-BOARD BUDGET REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $55,200	- $6,400	- $3,200	- $64,800

Governor: Reduce the Board's general operations appropriation by $23,200 in 2001-02 and $32,000 in 2002-03. These amounts represent 3.5% of the appropriation in 2001-02 and 5.0% in 2002-03.

Joint Finance: Reduce the TEACH Board's general program operations appropriation by $6,400 in 2002-03. This amount represents an additional 1% reduction in the agency's state operations appropriation in 2002-03.

Assembly: Reduce the TEACH Board's general program operations appropriation by an additional $3,200 in 2002-03. This amount represents an additional 0.5% reduction to the Board's state operations appropriation in 2002-03.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9249(1) & (2g)]

2. EDUCATIONAL TECHNOLOGY TRAINING AND TECHNICAL ASSISTANCE GRANTS

Senate: Require that recipients who received TEACH training and technical assistance grants in 2001-02 would receive the same amount in 2002-03. No additional grant recipients could be designated in 2002-03. If the appropriation in 2002-03 were increased or decreased, require the grants to be increased or decreased in proportion to the change in the appropriation. Allow a grant recipient to expend grant funds on any type of technical assistance and training in the use of educational technology that the recipient deems appropriate. Require that, as a

condition of receiving a grant, a recipient must report by July 1, 2003, on the use of the funds.

Conference Committee/Legislature: Delete provision.

3. TRANSFER TEACH PROGRAMS TO DPI

	Legislature		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $102,500	- 1.00	$140,900	1.00	$38,400	0.00
GPR-Lapse			38,400		38,400	
Net GPR Chg.			$102,500		$0	

Senate/Legislature: Effective July 1, 2002, transfer the programs, duties, appropriations, and staff, excluding the executive director position, of the TEACH Board to the Department of Public Instruction (DPI). Transfer all TEACH appropriations to DPI, except the TEACH general program operations appropriation, which would be eliminated. Eliminate the executive director position with $102,500 GPR in 2002-03, as well as the TEACH Board. Transfer the remaining portion of the general program operations appropriation, $498,800 for 2002-03, to the largest DPI general program operations appropriation to fund the positions transferred from TEACH and related expenses.

Transfer from TEACH to DPI all assets, liabilities, tangible personal property, records and contracts that are primarily related to the functions of TEACH, as determined by the Secretary of DOA. Provide that all contracts entered into by TEACH or by DOA on behalf of TEACH that were in effect prior to the transfer would remain in effect until their specified expiration date or until they were rescinded or modified by DPI. Specify that all rules promulgated and orders issued by TEACH that were in effect would remain in effect until their specified expiration date or until they were amended or repealed by DPI. Provide that any pending matters would transfer to DPI and all materials submitted to TEACH or actions taken by TEACH concerning the pending matter would be considered as having been submitted to or been taken by DPI.

Transfer to DPI 4.0 GPR positions, 1.0 FED position, and 2.0 PR positions and the incumbent employees holding positions in TEACH. Provide that the persons transferred would retain all employment rights and status that they held prior to the transfer and that no transferred employee who had attained permanent status in the classified service would be required to serve a new probationary period.

Veto by Governor [E-14]: Delete the transfer of TEACH to DPI. As a result, TEACH remains a separate agency. Restore the $102,500 GPR in 2002-03 in the TEACH general program operations appropriation and the executive director position within TEACH. Because the general program operations transfer amount to DPI would have been lower by $38,400 to account for the 5% and 1% across the board reductions attributable to TEACH for 2002-03, the

veto has the effect of restoring an additional $38,400 GPR to TEACH. Although not addressed in the veto message, staff from DOA indicate that, instead, TEACH will be instructed to lapse this amount in 2002-03, and it will be removed from the agency's base budget for 2003-05.

[Act 109 Vetoed Sections: 13q, 20pm, 20se, 20tn, 23m, 23n, 32mm thru 32om, 64L, 68m, 68n, 69g, 93g, 100L, 100ng thru 100oy, 279m, 280m, 284d, 287d, 346c, 346m, 346r, 346rm, 346rt, 9140(3q), 9240(1r) and 9440(3q)]

TOBACCO CONTROL BOARD

1. TOBACCO CONTROL FUND TRANSFER

Governor: Create a sum sufficient appropriation to annually transfer to the tobacco control fund, beginning on June 15, 2004, an amount of GPR that would equal $25,000,000, less the amount that the Joint Committee on Finance transfers to the tobacco control fund from the permanent endowment fund under provisions created in Act 16. Provide that the tobacco control fund would consist of moneys transferred by this new appropriation, in addition to any funds transferred under current law from the permanent endowment fund, beginning in 2003-04.

2001 Act 16 requires the Joint Committee on Finance to annually transfer on June 15, beginning in 2004, to the tobacco control fund from the permanent endowment fund, the lesser of $25,000,000 or 8.5% of the market value of the investments in the permanent endowment fund on June 1 in that year.

Assembly: Specify that the transfer from the general fund to the tobacco control fund would be reduced by an amount equal to earnings on the balance of the permanent endowment fund in the previous calendar year, rather than 8.5% of the balance of the permanent endowment fund.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 7p, 40, 79q, 79r and 81]

2. GRANT FUNDING

Senate: Increase the amount of GPR transferred to the tobacco control fund in 2002-03 by $10,000,000 so that a total of $25,345,100 would be transferred in 2002-03. Increase funding for grants distributed by the Board by $10,000,000 SEG in 2002-03 so that $25,000,000 would be budgeted for grants in 2002-03, rather than $15,000,000, as provided under current law. This item would not change the amount of funding budgeted for the Board's general program operations in 2002-03 ($345,100 SEG).

Conference Committee/Legislature: Delete provision.

TOBACCO SECURITIZATION

1. OVERVIEW OF PROPOSED USE OF TOBACCO SECURITIZATION PROCEEDS [LFB Paper 1250]

This item provides a brief comparison of the projected use of proceeds from tobacco securitization under each version of the budget adjustment bill. The following table indicates the estimated bond proceeds under the projected transaction.

Projected Uses of Tobacco Securitization Bond Proceeds
($ in Millions)

Purpose	Governor	Jt. Finance/ Assembly	Senate	Conf. Comm./ Legislature
Deposit to General Fund	$450	$650	$1,244	$681
Deposit to Endowment Fund*	$794	$594	$0	$594
Less Payments for Debt Service	-200	0	0	0
Less Payments of Shared Revenue	-594	-594	0	- 594
Net Endowment Fund	$0	$0	$0	$0
Debt Service and Other Reserves	159	159	159	137
Capitalized Interest and Costs	179	179	179	140
Costs of Issuance	0	15	15	15
Total	$1,597	$1,597	$1,597	$1,567

*Excludes any investment earnings.

At the time of legislative deliberations on the 2001-03 biennial budget, it was estimated that the state would receive $1.257 billion in bond proceeds under the tobacco securitization transaction, which would have involved the issuance of tax exempt and taxable bonds. The taxable bond proceeds, which can be invested at a higher rate of return compared to tax exempt bond proceeds, would have made up most of the monies deposited to the permanent endowment fund. Due primarily to lower market interest rates, the same transaction would have generated estimated bond proceeds of $1.339 billion, because with lower debt service costs, the same revenue stream (the state's tobacco settlement payments) could have supported a larger bond issue. Net bond proceeds available to the state would have totaled an estimated $1.01 billion ($450 million to the general fund and $560 million to the endowment fund) compared to the $920 million that was estimated during the 2001-03 biennial budget deliberations ($450 million to the general fund and $470 million to the endowment fund).

Under the securitization transaction included as part of the budget adjustment bill, the state issued only tax exempt bonds. Tax exempt bonds have lower debt service costs and allow a larger total bond issue compared to taxable bonds, but have the disadvantage that federal tax law limits the investment return that could be received on the bond proceeds. By issuing solely tax exempt bonds, the state received $1.567 billion in bond proceeds, which resulted in net proceeds to the state of $1.275 billion. (The actual securitization transaction took place in May, 2002 and generated $1.275 billion for the state, which is $31 million greater than was anticipated under each version of the bill prior to the Conference Committee.)

2. SHARED REVENUE PAYMENTS FROM THE PERMANENT ENDOWMENT FUND

Governor: Create a sum sufficient segregated appropriation from the permanent endowment fund to make state shared revenue distributions to towns, villages, cities and counties. DOA estimates that $594,000,000 SEG in 2002-03 would be appropriated from the permanent endowment fund to make 2002 and 2003 shared revenue payments. Specify that these shared revenue payments would be an allowable use of the funds deposited to the permanent endowment fund. Repeal the sum sufficient appropriation for making shared revenue payments from the permanent endowment fund and the authority to make those payments from the fund on July 1, 2003. The fiscal effect of this provision is shown under "Shared Revenue and Tax Relief."

Joint Finance: Specify that the appropriation from the permanent endowment (tobacco securitization) fund would be used to pay a portion of the November, 2002, distribution under the shared revenue, county mandate relief and small municipalities shared revenue programs, using all available endowment funds, as determined by DOA. Estimate expenditures from this appropriation at $594,000,000 SEG in 2002-03. Reduce the amounts paid in November, 2002, from the general fund proportionally to reflect the amounts paid from the permanent endowment fund.

Senate: Delete provisions regarding payment structure that would create an appropriation, estimated at $594,000,000 SEG, from the permanent endowment fund to pay a portion of the November, 2002 shared revenue distribution. Instead, provide for a $594,000,000 SEG transfer from the permanent endowment fund to the general fund in 2002-03 and provide $594,000,000 GPR for shared revenue payments in 2002-03.

Conference Committee/Legislature: Include Joint Finance provision. In addition, recognize an estimated $4.3 million interest earnings on the balance held in the fund prior to expenditure for shared revenue in November, 2002, which would increase estimated SEG expenditures for shared revenue by $4,300,000 and reduce GPR expenditures by $4,300,000. The fiscal effect of these interest earnings and their expenditure is shown under "Shared Revenue and Tax Relief."

[Act 109 Sections: 59, 60, 82, 83 and 9459(2)]

3. DEBT SERVICE PAYMENT FROM THE PERMANENT ENDOWMENT FUND

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$200,000,000	- $200,000,000	$0	$0
GPR-REV	$0	$200,000,000	$31,000,000	$231,000,000
SEG	$200,000,000	$0	$31,000,000	$231,000,000

Governor: Require the Department of Administration to annually determine the amount to be paid from the permanent endowment fund into one or more sinking funds of the bond security redemption fund and any escrow accounts established under escrow agreements authorized by the Secretary of Administration that relate to contracting public debt. Create a sum sufficient SEG appropriation equal to the amount determined by the Secretary of Administration. Specify that these debt payments are an allowable use the funds deposited to the permanent endowment fund. Require DOA, when preparing the appropriation schedule that will be included in the final printed version of the 2001 statutes, to insert the amount of $200,000,000 as the estimated expenditure amount in 2001-02 from this newly created appropriation. DOA budget documents indicate that this payment from the permanent endowment fund would offset $200,000,000 GPR of debt service that would otherwise be paid from agency, sum sufficient, GPR debt service appropriations.

Joint Finance: Delete the Governor's recommendations that would authorize the payment of debt service from the permanent endowment fund, which is estimated at $200,000,000. Instead, increase the Act 16 transfer from the permanent endowment fund to the general fund in 2001-02 by $200,000,000, from $450,000,000 to $650,000,000.

Conference Committee/Legislature: Modify the Joint Finance provision to transfer $31 million of additional tobacco securitization proceeds from the permanent endowment fund to the general fund in 2001-02.

[Act 109 Section: 9259(5e)]

4. TRANSFER TO PERMANENT ENDOWMENT FUND

Assembly: Transfer $125 million GPR to the segregated permanent endowment fund associated with tobacco securitization on June 30, 2003.

Senate/Legislature: Delete provision.

5. CORRECT CROSS REFERENCE TO JFC FOR FUTURE ENDOWMENT FUND TRANSFERS

Governor/Legislature: Correct an Act 16 cross reference to the Joint Finance Committee relating to Committee approval of the annual transfer of funds from the permanent endowment fund to the general fund.

[Act 109 Section: 61]

TOURISM

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$357,400	$0	$0	$357,400
GPR	$0	- $112,500	- $56,300	- $168,800

Governor: Lapse a total of $147,200 in 2001-02 and $210,200 in 2002-03 from among the following GPR appropriations as determined by the Secretary of Tourism. These amounts represent 3.5% of Tourism's total GPR general operations appropriations (excluding tourism marketing) in 2001-02 and 5.0% in 2002-03.

General Program Operations
Tourism Marketing
Heritage Tourism Operations
Kickapoo Reserve Information Technology Support Operations

Joint Finance: Reduce Tourism's largest GPR state operations appropriation by an additional $112,500. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Reduce Tourism's largest GPR state operations appropriation by an additional $56,300. This amount represents an additional 0.5% reduction in the agency's state GPR operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9251(1) and 9259(7z)]

2. HERITAGE TOURISM PROGRAM

	Jt. Finance		Legislature (Chg. to JFC)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $57,700	0.00	- $85,700	0.00	- $143,400	0.00
PR	0	- 1.00	0	0.00	0	- 1.00
Total	- $57,700	- 1.00	- $85,700	0.00	- $143,400	- 1.00

Joint Finance: Delete $57,700 from tourism marketing GPR in 2002-03 and 1.0 heritage tourism program coordinator PR position from tribal gaming revenues. Promotional and grant funding for the state heritage tourism program would remain. The $57,700 PR in funding associated with the deleted PR position would be used for tourism marketing, resulting in no net change to total authorized tourism marketing expenditures.

Assembly: In addition, delete promotional and grant funding of $85,700 GPR in 2002-03 and eliminate the state heritage tourism program. Delete a provision allowing Tourism to fund part of the heritage tourism program from its tribal gaming tourism marketing appropriation. The estimated $42,300 PR in funding currently associated with heritage tourism program promotional and grant funding would be used for Tourism marketing instead. Delete a

corresponding $42,300 GPR from Tourism marketing, resulting in no net change to total authorized tourism marketing expenditures. The provision also deletes $43,400 GPR in 2002-03 from a heritage tourism appropriation. Heritage tourism areas may continue to seek funding through Tourism's joint effort marketing (JEM) grants.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 36ke, 36kf, 100j, 9151(1x), 9251(1x) and 9251(2d)]

3. TOURISM MARKETING

Senate: Delete $1,900,000 GPR for tourism marketing and provide an additional $1,900,000 PR from tribal gaming revenue in 2002-03 for tourism marketing, resulting in no net change to total authorized tourism marketing expenditures.

Conference Committee/Legislature: Delete provision.

4. BADGER STATE GAMES PROMOTION

Senate/Legislature: Require Tourism to allocate $50,000 annually beginning in 2002-03 from its GPR marketing appropriation to provide assistance to the Badger State Games.

Veto by Governor [B-16]: Delete provision.

[Act 109 Vetoed Sections: 36kd, 100iz and 9451(1v)]

TRANSPORTATION

1. TRANSPORTATION FUND TRANSFER TO THE GENERAL FUND

GPR-REV	$10,524,500
SEG	$10,524,500
SEG-Lapse	10,524,500

Governor: Provide $4,333,600 in 2001-02 and $6,190,900 in 2002-03 in a new appropriation for making transfers from the transportation fund to the general fund in those years. Repeal this appropriation on June 30, 2003.

Require DOT to submit two reports to DOA, one for each fiscal year of the 2001-03 biennium, for lapsing $4,333,600 in 2001-02 and $6,190,900 in 2002-03 from SEG appropriations from the transportation fund to DOT for state operations. Specify that the reports shall specify applicable appropriations, the amount of the proposed lapse from each appropriation and anticipated actions by DOT. Require DOT to make every effort to avoid adverse impacts on activities related to highway planning, design and construction. Specify that the report for lapsing funds in fiscal year 2001-02 be submitted in that fiscal year and require the report for fiscal year 2002-03 be submitted no later than December 31, 2002. The amounts lapsed to the transportation fund would provide the funds needed to make the transfers to the general fund.

These amounts would be in addition to the DOT state operations appropriation transfers to the general fund required by Act 16, as modified by the Joint Committee on Finance ($7,211,700 in 2001-02 and $6,190,900 in 2002-03). In total, if this recommendation is approved, transfers from the transportation fund to the general fund would be $11,545,300 in 2001-02 and $12,381,800 in 2002-03, for a biennial total of $23,927,100.

Senate/Legislature: Modify the provision to specify that DOT's lapse plan shall avoid adverse impacts on activities related to highway planning and programming, design and construction.

[Act 109 Sections: 26 (as it relates to s. 20.855(4)(v)), 63, 64, 9152(1) and 9452(1)]

2. CAPACITY EXPANSION ON SOUTHEAST WISCONSIN FREEWAYS

Assembly: Require DOT to design the reconstruction of the Marquette Interchange and I-94 in Milwaukee and Waukesha Counties to allow for expansion of capacity for vehicular traffic on those highways to meet the projected vehicular traffic capacity needs, as determined by the Department, for 30 years following the completion of the reconstruction of those highways.

Senate: Delete provision.

Conference Committee/Legislature: Adopt the Assembly provision, modified to: (a) eliminate the requirement with respect to the Marquette Interchange; and (b) change the time frame that DOT must consider from 30 years following the completion of the reconstruction to 25 years following the completion of the reconstruction.

[Act 109 Section: 258ptg]

3. RESTRICTIONS ON THE USE OF PASSENGER RAIL SERVICE BONDING

Assembly: Eliminate a current law requirement that DOT get approval of the Joint Committee on Finance prior to using bond proceeds for passenger rail improvements between Milwaukee and Green Bay or Milwaukee and Madison or for passenger rail station improvements and, instead, prohibit DOT from using these bond proceeds unless the use of the proceeds is specifically enumerated in the statutes, first applying to uses enumerated on the effective date of the bill. Prohibit DOT, beginning on January 1, 2003, from spending any funds on passenger rail route development if the anticipated expenditures for the project exceed 20% of the total cost of the project, but specify that this restriction does not apply to expenditures for any activities that DOT may be required to conduct for purposes of eligibility for federal financial participation in a project.

Senate/Legislature: Delete provision.

4. VEHICLE EMISSIONS INSPECTION PROGRAM

Assembly: Modify requirements for the vehicle emissions inspection program in southeast Wisconsin counties by specifying that nonexempt vehicles must be tested in the fourth year after the vehicle's model year and every second year thereafter, instead of, under current law, in the second year after the vehicle's model year and every second year thereafter. Specify that vehicles shall be tested in the vehicle's second model year if the DOT Secretary determines that such testing is required during any period of time to avoid the loss or reduction of any federal aid. Specify that these provisions first apply to model year 2002 vehicles. Reduce the DOT appropriation for paying the vendor that performs the test by $306,000 SEG in 2002-03 to reflect a reduction in the volume of tests conducted.

Senate/Legislature: Delete provision.

5. MOTORCYCLE SAFETY PROGRAM

SEG	$200,000

Assembly: Provide $200,000 SEG in 2002-03 for the DOT's motorcycle safety program. The base budget for the program is $454,000 SEG and $95,000 FED in 2002-03.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9252(1e)]

6. MOTORCYCLE LICENSE PLATE SIZE

Assembly: Require DOT to issue license plates for motorcycles that are four inches by seven inches in size and specify that the plates must have black lettering on a white background, beginning on the first day of the ninth month beginning after the effective date of the bill. Delete a provision, effective on the general effective date of the bill, that requires motorcycle veterans plates to be four inches by seven inches in size and, instead require such plates to be four inches by seven inches in size beginning on the first day of the ninth month beginning after the effective date of the bill. Under current law, the Department is required to issue veteran's license plates that are four inches by seven inches in size. No size is specified in statute for other motorcycle license plates. Currently, the equipment used to produce motorcycle license plates is manufactured to produce motorcycle license plates, including the veteran's plates, that are four and three-eighths inches by eight and one-eighth inches in size. This item would delete the requirement that veteran's license plates be four inches by seven inches in size, but would reinstate this requirement, as well as require all other motorcycle plates be that size, effective on the first day of the ninth month beginning after the effective date of the bill.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 432g, 432h, 432r, 432w and 9452(1fg)]

7. SEMITRAILER LENGTH RESTRICTIONS ON HIGHWAYS

Assembly: Modify a provision that specifies that semitrailers (operated as part of a two-vehicle combination) may be operated without a permit for excessive length provided that they do not exceed 53 feet in length and if they are operated on highways designated for such vehicles, to, instead, specify that such semitrailers may be operated without a permit on any

highway. Specify that this provision first applies to violations committed on the effective date of the bill, but does not preclude the counting of other violations as prior violations for the purposes of sentencing a person. The requirement that the length from the semitrailer's kingpin to its axle cannot exceed 43 feet would be retained.

Under current law, the length limit for trailers or semitrailers operated as part of a two-vehicle combination (the trailer or semitrailer and the pulling vehicle) is 48 feet on any highway. However, DOT may, by administrative rule, designate certain highways on which the length limitation for semitrailers operated as part of a two-vehicle combination is 53 feet as long as the length from the semitrailer's kingpin to its axle does not exceed 43 feet.

Senate/Legislature: Delete provision.

8. COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION FOR RAILROAD CROSSING OFFENSES

Assembly: Specify that a person is disqualified from operating a commercial motor vehicle if convicted of a railroad crossing violation while driving or operating a commercial motor vehicle, as follows: (a) for a period of 60 days upon conviction of one offense; or (b) for a period of 120 days upon two convictions in one year or three or more convictions, arising from separate occurrences committed within a three-year period. Define a "railroad crossing violation" as a violation of a federal, state or local law, rule or regulation relating to any of the following offenses at a railroad crossing: (a) if the operator is not always required to stop the vehicle, failing to reduce speed and determine that the tracks are clear of any approaching train; (b) if the operator is not always required to stop the vehicle, failing to stop before reaching the crossing if the tracks are not clear; (c) if the operator is always required to stop the vehicle, failing to do so before proceeding onto the crossing; (d) failing to have sufficient space to proceed completely through the crossing without stopping the vehicle; (e) failing to obey any official traffic control device or the directions of any traffic officer, railroad employee or other enforcement official; or (f) failing to successfully proceed through the crossing because of insufficient undercarriage clearance.

Specify that no employer may knowingly allow, permit or authorize an employee to operate a commercial motor vehicle in violation of any federal, state or local law, rule or regulation relating to railroad crossings. Specify that any employer who violates this prohibition shall be subject to a forfeiture of not more than $10,000.

Specify that these provisions first apply to offenses committed on October 4, 2002. These provisions are required to be in compliance with federal law. Failure to comply by October 4, 2002, may result in the loss of federal highway aid. DOT estimates that the amount of lost aid would be $11.4 million in the first year and $22.8 million in the second and subsequent years.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 439e thru 439j, 441m, 441p, 9352(1h) and 9452(1ff)]

9. REGISTRATION OF HOMEMADE AND REPLICA VEHICLES

Assembly: Eliminate, for the purposes of vehicle registration provisions, the vehicle category of "replica vehicle" and, instead, subsume the current law definition of replica vehicles into the definition of homemade vehicle. Eliminate all references to replica vehicles in vehicle registration provisions, effectively requiring such vehicles to be registered as homemade vehicles. Specify that vehicles registered as replica vehicles under current law provisions shall be treated as homemade vehicles for the purposes of vehicle registration, but specify that owners of a vehicle for which a license plate was issued indicating that the vehicle is a replica vehicle do not need to exchange that license plate for a homemade vehicle license plate. Specify that these provisions first apply to registration applications received by DOT on the first day of the third month beginning after the effective date of the bill.

Senate: Delete provision.

Conference Committee/Legislature: Adopt the Assembly provision, modified to make the elimination of the category "replica vehicle" apply only to motorcycles.

[Act 109 Sections: 432j, 432wg thru 432wt, 461m, 9352(1jh) and 9452(2j)]

10. LOCATIONS OF HIGHWAY REST AREAS

Assembly: Prohibit DOT from constructing any rest area along or in close proximity with a state trunk highway at a location that is within a radius of five miles from an exit from the highway that provides access to motorist services, as defined for the purposes of the specific information sign program, first applying to construction of rest areas commenced on the effective date of the bill. Specify that this restriction does not apply to rest areas to be located within five miles of the state border or to any rest area that may be located near the Village of Belmont in Lafayette County. Specify that the total amount of any proposed expenditures or encumbrances that DOT does not make in the 2001-03 biennium as a result of this provision shall be expended or encumbered in the 2001-03 biennium to reopen previously closed rest areas or to keep open rest areas that are proposed for closure in areas where other rest areas and motorist services are not available.

Senate/Legislature: Delete provision.

11. OUTDOOR ADVERTISING SIGN FEES FOR SIGNS OWNED BY NONPROFIT ENTITIES

Assembly: Specify that DOT's administrative rule establishing an annual permit fee for outdoor advertising signs shall specify that no permit fee may be charged for an off-premises advertising sign that is owned by a nonprofit organization.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 258pv]

12. LOCAL ROADS FOR JOB PRESERVATION PROGRAM

Assembly: Specify that, in administering the local roads for job preservation program, DOT may specify the type of pavement to be used in any project funded under the program for the purpose of enhancing pavement life and cost-effectiveness of the project. Specify that this first applies to contracts for projects under the program that are entered into on the effective date of the bill.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 259g and 9352(1z)]

13. TRANSPORTATION ECONOMIC ASSISTANCE PROGRAM

Assembly/Legislature: Require DOT, in administering the transportation economic assistance (TEA) program, to review and make determinations on applications for assistance under the program on a continuing, year-round basis and require the Department to make a determination on each application within a reasonable time after its receipt. Specify that these provisions first apply to applications for assistance submitted to DOT in fiscal year 2002-03.

[Act 109 Sections: 258pux and 9352(1g)]

14. BONDING AUTHORIZATION TO COMPENSATE FOR REDUCTIONS IN FEDERAL HIGHWAY AID

BR	$140,000,000

Senate: Authorize $200,000,000 in transportation fund-supported, general obligation bonding to compensate for reductions in federal highway aid received by the state. Prohibit DOT from using the proceeds of these bonds unless both of the following apply: (a) the Department's most recent estimate of the amount of federal funds that will be received for surface transportation programs in the current state fiscal year is less than 95% of the amount of such funds shown in the Chapter 20 appropriation schedule for the programs funded with those federal funds; and (b) the DOT Secretary has submitted a plan to the Joint Committee on Finance for the use of the bond proceeds and the Joint Committee on Finance has approved, or modified and approved, the plan.

Specify that DOT may submit such a plan at any time during a state fiscal year after it is determined that the Department's estimate of federal aid to be received is less than 95% of the amount shown in the appropriation schedule for that fiscal year. Specify that the Joint Committee on Finance may approve, or modify and approve, such a plan using the current law process by which DOT is required to submit a plan to the Committee for adjusting the Department's appropriations if the amount of federal transportation aid received by the state differs from the amounts estimated for the state biennial budget by more than 5%. Prohibit DOT from submitting or the Joint Committee on Finance from approving a plan for using an amount of bonding that exceeds the difference between the amount of federal aid shown in the Chapter 20 appropriations schedule and the Department's estimate of federal aid to be received in those programs in that fiscal year.

Conference Committee/Legislature: Adopt the Senate provision, but authorize $140,000,000 in bonding, instead of $200,000,000.

[Act 109 Sections: 7m, 36mk, 64h, 64ti, 258ps, 258pt, 258puv and 258pw]

15. RESTRICTION ON USE OF STATE HIGHWAY REHABILITATION AND MAJOR HIGHWAY DEVELOPMENT FUNDS FOR SOUTHEAST WISCONSIN FREEWAY PROJECTS

Senate/Legislature: Prohibit DOT from using any of the following appropriations for southeast Wisconsin freeway rehabilitation projects: (a) the SEG, FED or SEG-L appropriations for state highway rehabilitation; (b) the SEG, FED, SEG-S or SEG-L appropriations for major highway development; or (c) the general obligation bonding appropriations that provide bonding authorization for accelerated highway improvements and for highway construction projects. Specify that southeast Wisconsin freeway rehabilitation projects, including the Marquette Interchange reconstruction project and projects that involve adding one or more lanes five miles or more in length to the existing freeway, may only be funded from the SEG, FED and SEG-L appropriations for southeast Wisconsin freeway rehabilitation or with the

proceeds of bonds authorized to compensate for a reduction in the amount of federal aid received by the state. (A separate Senate item would authorize $200,000,000 in bonding to compensate for any reduction below estimates in the amount of the state's federal highway aid.)

Require DOT to make a request to the Joint Committee on Finance under s. 13.10 of the statutes, for the first such quarterly meeting after the effective date of the bill, for the transfer of funds from the appropriations for state highway rehabilitation to the appropriations for southeast Wisconsin freeway rehabilitation to allocate funds for the rehabilitation of southeast Wisconsin freeways. Specify that DOT's request and the Committee's action on the request may not include the transfer of funds that are currently allocated for projects in other parts of the state or other funding that is not currently allocated to rehabilitation of southeast Wisconsin freeways.

[Act 109 Sections: 36md thru 36mj, 64tg, 64th, 258pt and 9152(4q)]

16. EXCLUSION OF CAPACITY EXPANSION ON SOUTHEAST WISCONSIN FREEWAYS FROM DEFINITION OF MAJOR HIGHWAY PROJECTS

Senate/Legislature: Modify the definition of a major highway project to exclude southeast Wisconsin freeway rehabilitation projects. Prohibit DOT from expending funds from the appropriations for southeast Wisconsin freeway rehabilitation for a southeast Wisconsin freeway rehabilitation project that involves adding one or more lanes five miles or more in length to the existing freeway unless the project is specifically enumerated in a newly-created list for such projects. Specify that no projects are currently enumerated in this list.

[Act 109 Sections: 258pr and 258pu]

17. EMERGENCY PREEMPTION DEVICES ON TRAFFIC SIGNALS INSTALLED ON LOCAL ROADS AND STATE TRUNK HIGHWAY SYSTEM

Senate/Legislature: Require DOT to install an emergency preemption device and a confirmation signal on any traffic control signal installed by the Department on the state trunk highway system if the following apply: (a) the political subdivision (defined as a county, city, village or town) in which the signal is located requests the installation of such a device; and (b) one or more political subdivisions contributes 50% of the additional cost of the emergency preemption device and confirmation signal. Require DOT to do all of the following before installing a new traffic control signal on a state trunk highway: (a) notify the political subdivision of the planned installation and the additional cost of equipping the traffic control signal with an emergency preemption device and confirmation signal; and (b) allow the political subdivision the opportunity to request that the traffic control signal be equipped with an emergency preemption device and confirmation signal. Specify that these provisions do not

prohibit DOT from installing any traffic control signal equipped with an emergency preemption device and confirmation signal on a state trunk highway at the Department's expense and specify that the Department may do so without notifying the political subdivision or allowing the political subdivision to request the installation of such a device. Require DOT, when installing a new emergency preemption device under these circumstances, to also install a confirmation signal.

Specify that any traffic control signal installed by the Department in the state after the first day of the seventh month beginning after the effective date of the bill shall include all electrical wiring necessary to equip the signal with an emergency preemption device and confirmation signal if the traffic control signal is not equipped with an emergency preemption device.

Require DOT to promulgate rules to implement and administer these provisions, including procedures and deadlines for the Department's notification of political subdivisions and the subsequent requests and contributions to the Department.

Specify that any new traffic control signal installed by a local authority after the first day of the seventh month beginning after the effective date of the bill that is not equipped with an emergency preemption device shall include all electrical wiring necessary to equip the traffic control signal with an emergency preemption device and confirmation signal. Specify that any traffic control signal that is equipped with an emergency preemption device and that is installed by a local authority after the first day of the seventh month beginning after the effective date of the bill must be installed with a confirmation signal.

Define the following terms: (a) "emergency preemption device" as an electrical device located on or within a traffic control signal that is designed to receive an electronic, radio, or sonic transmission from an approaching authorized emergency vehicle that alters the normal sequence of the traffic control signal to provide or maintain a green signal for the authorized emergency vehicle to proceed through the intersection; (b) "confirmation signal" as a white signal located on or near a traffic control signal equipped with an emergency preemption device that is designed to be visible to the operator of an approaching authorized emergency vehicle and that confirms to the operator that the emergency preemption device has received a transmission from the operator; (c) "traffic control signal" as any electrical device by which traffic is alternately directed to stop and permitted to proceed by means of exhibiting different colored lights successively; (d) "authorized emergency vehicle" as police vehicles, vehicles of a fire department or fire patrol and publicly or privately owned ambulances that are authorized as emergency vehicles; and (e) "additional cost" as the difference in cost between installation of a traffic control signal that is equipped with an emergency preemption device and confirmation signal and installation of a traffic control signal that is not so equipped, including the difference in incidental costs such as electrical wiring.

Specify that these provisions first apply to traffic control signals that are installed on the first day of the seventh month beginning after the effective date of the bill.

Require DOT, in each fiscal year, to expend federal hazard elimination safety funds for hazard elimination projects that reduce the response time of emergency vehicles, regardless of the associated reduction in motor vehicle accidents.

Veto by Governor [B-17]: Delete provision.

[Act 109 Vetoed Sections: 258pur, 258x, 461u, 9352(1j) and 9452(1fh)]

18. USE OF HEADLIGHTS WITH WINDSHIELD WIPERS

Senate: Specify that no person may operate a vehicle upon a highway at any time that a windshield wiper is being used on the windshield of the vehicle unless all headlamps, tail lamps and clearance lamps with which such vehicle is required to be equipped are lighted. Specify that parking lights are not to be used for this purpose. Specify that this requirement does not apply to the following: (a) the temporary use of a windshield wiper for the sole purpose of cleaning the windshield; (b) if lamps that are automatically activated whenever the vehicle is started are in use if the headlamps are of sufficient intensity to satisfy the requirements for daytime running lamps under federal regulations; (c) on a towed vehicle; (d) on a vehicle having at least two lighted adverse weather lamps on the front thereof when such lamps are being used in lieu of headlamps during conditions of rain, snow, dust or fog that make the use of such lamps in lieu of headlamps absolutely necessary; or (e) on a vehicle owned or leased by the Department of Natural Resources and operated by a conservation warden on a highway other than an interstate, a state trunk highway or any highway within the limits of any incorporated area, if the driving without lighted lamps will aid in the accomplishment of a lawful arrest for natural resource law violations or in ascertaining whether a violation of such laws has been or is about to be committed. Define "windshield wiper" as a mechanical device for cleaning rain, snow or other moisture from the windshield of a vehicle. Define "windshield" as the shield of safety glass, glass or another material mounted forward of the passenger compartment of a motor vehicle, other than a motor-driven cycle. Specify that this provision first applies to offenses committed on the effective date of the bill.

Specify that a law enforcement officer may not stop or inspect a vehicle solely to determine compliance with this requirement or any local ordinance in conformity with this provision and may not take a person in physical custody solely for a violation of this requirement or a local ordinance in conformity with this provision, but specify that this restriction on law enforcement officers does not limit the authority of officers to issue a citation for a violation observed in the course of a stop or inspection made for other purposes.

Specify that any person convicted of failing to use a vehicle's lamps while the windshield wipers are in use may be required to forfeit not less than $10 nor more than $20 for a first offense and not less than $25 nor more than $50 for the second or subsequent conviction within a year. Specify that upon such a conviction, courts shall not assess the following assessments and fees that are levied upon traffic law convictions: (a) a penalty assessment; (b) a crime laboratories and drug law enforcement assessment; (c) a jail assessment; (d) a justice information system fee; (e) court support services fee; and (f) circuit or municipal court costs fees. Specify that convictions for the violation of the requirement that a vehicle's lamps be lighted while the windshield wipers are in use shall not appear on the person's driving record.

Modify vehicle equipment requirements to apply the same standards to vehicles operated with a windshield wiper that currently apply to vehicles operated during hours of darkness.

Conference Committee/Legislature: Delete provision.

19. TITLING TREATMENT OF HAIL-DAMAGED VEHICLES

Senate/Legislature: Specify that the term "salvage vehicle," as defined for the purpose of statutory provisions related to motor vehicles, does not include a hail-damaged vehicle unless the vehicle is repaired with any replacement parts that are nonmechanical sheet metal or plastic parts that generally constitute the exterior of a motor vehicle. Define a "hail-damaged vehicle" as a vehicle less than seven years old that is not precluded from subsequent registration and titling and which is damaged solely by hail to the extent that the estimated or actual cost, whichever is greater, of repairing the vehicle exceeds 70% of its fair market value. Require DOT, before issuing a new or duplicate certificate of title for a hail-damaged vehicle, to permanently record on the certificate that that the vehicle is a hail-damaged vehicle, unless the vehicle was repaired with any replacement parts, as described above (such vehicles would continue to be designated on the title as salvage vehicles). Specify that this provision takes effect on the first day of the fourth month beginning after the effective date of the bill.

[Act 109 Sections: 432b, 432d, 435m and 9452(2q)]

20. MARQUETTE INTERCHANGE RECONSTRUCTION -- TRAFFIC MITIGATION ON STH 794

Senate: Specify that the term reconstruction, as defined for the purposes of a provision related to the reconstruction of the Marquette Interchange, includes construction or reconstruction of alternative routes for the purposes of traffic mitigation. The current definition of reconstruction in this provision includes traffic mitigation, but does not specify that traffic mitigation may involve the reconstruction of alternative routes.

Specify that the Marquette Interchange reconstruction project may include construction that consists of extending STH 794 in Milwaukee County as an alternate route for purposes of traffic mitigation, notwithstanding a statutory provision that prohibits the Department from, within any six-year period, constructing a highway project consisting of separate, contiguous projects, which do not individually qualify as major highway projects, but which in their entirety would constitute a major highway development project. STH 794, or the Lake Arterial highway, is an enumerated major highway project that was opened to traffic in 1999. The statutory enumeration for the project specifies that the southern terminus of the project is East Layton Avenue. Because of this statutory provision, the Department could not extend STH 794 past East Layton Avenue until after six years have elapsed since work on the Lake Arterial project was completed. This item would allow the Department to extend this highway past East Layton Avenue before the six-year period has elapsed, but would preclude using major highway development appropriations for the project since it would remain outside the enumerated project's termini.

Conference Committee/Legislature: Delete provision.

21. INTERSECTION IMPROVEMENTS AT USH 51 AND RIEDER ROAD IN THE CITY OF MADISON

Senate/Legislature: Require DOT to expend up to $300,000 in federal hazard elimination funds to make the following intersection improvements during the 2001-03 biennium at the intersection of USH 51 and Rieder Road in the City of Madison, if the project qualifies under federal regulations for the use of those funds: (a) reconstruction of the southbound lanes of USH 51 at Rieder Road to incorporate a divided deceleration and turn lane on USH 51 for southbound traffic turning east onto Rieder Road from USH 51 and a divided acceleration lane on USH 51 for traffic traveling west on Rieder Road turning south onto USH 51; and (b) the installation of any traffic control signals necessary to allow traffic traveling west on Rieder Road to turn onto southbound USH 51 without requiring southbound traffic on USH 51 to stop. DOT estimates that this project would cost $270,000.

Veto by Governor [B-18]: Delete provision.

[Act 109 Vetoed Section: 9152(2f)]

22. TRAFFIC SIGNALS IN THE CITY OF OAK CREEK

Senate: Require DOT to install traffic signals at the intersection of STH 38 and Oakwood Road in the City of Oak Creek by June 30, 2003.

Conference Committee/Legislature: Delete provision.

23. USE OF ENGINE BRAKES ON I-94 IN THE CITY OF MENOMONIE

Senate: Prohibit an operator of a motor vehicle from using engine brakes on the exit ramps from I-94 to STH 25 proceeding northerly in the City of Menomonie in Dunn County. Require DOT to erect a sign approaching each exit ramp on I-94 indicating the prohibition against the use of engine brakes to give adequate warning to motorists. Specify that this prohibition is not effective until signs giving notice of the prohibition have been erected by DOT. Specify that the prohibition against the use of engine brakes at this location does not apply to: (a) the operator of an authorized emergency vehicle when responding to an emergency call or when in pursuit of an actual or suspected violator of the law or when responding to, but not upon returning from, a fire alarm; and (b) the use of engine brakes in an emergency situation that poses a significant risk of death or bodily harm. Specify that anyone violating this prohibition may be required to forfeit not less than $20 nor more than $40 for the first offense and not less than $50 nor more than $100 for the second or subsequent conviction within a year. Define an "engine brake" as a hydraulically operated device that converts a power-producing diesel engine into a power-absorbing, retarding mechanism that is used to augment or replace the use of the primary brake system or mechanism on a motor vehicle.

Conference Committee/Legislature: Delete provision.

24. IMMUNITY FROM LIABILITY FOR LOCAL GOVERNMENTS FOR DAMAGES RESULTING FROM HIGHWAY DEFECTS

Assembly: Delete a statutory provision that gives a person the right to recover damages, not exceeding $50,000, from a town, village or city if the damages happened to the person or his or her property by reason of the insufficiency or want of repairs of any highway that the local government is bound to keep in repair. Delete a similar provision that allows not more than $50,000 in damages to be recovered from a county if the damages happened by reason of the insufficiency or want of repairs of any highway that the county is bound to keep in repair by law or by agreement with any town, city or village or which occupies any land that is owned and controlled by the county. Delete a related provision that: (a) establishes the primary liability of a person or private corporation if the person's or private corporation's wrong, default or negligence resulted in damages to any person or property by reason of any defect in any highway or other public ground; and (b) establishes the procedure to be used for assessing damages when it is determined that such a person or private corporation has primary liability and a town, city, village or county is secondarily liable.

Senate/Legislature: Delete provision.

TRUTH-IN-SENTENCING AND CRIMINAL PENALTY PROVISIONS

1. BIFURCATED SENTENCING MODIFICATIONS [LFB Paper 1255]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Veto (Chg. to Leg.)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	$140,000	6.00	$144,800	0.00	- $144,800	0.00	$140,000	6.00

Governor: Modify provisions concerning the state's sentencing system as described below.

History of Other Truth-In-Sentencing Legislation. In 1997 Act 283, the Legislature enacted "truth-in-sentencing" legislation which abolished parole and instead created a "truth-in-sentencing" system. Under truth-in-sentencing, courts are required, for offenses occurring on or after December 31, 1999, to impose a bifurcated sentence for those offenders sentenced to prison, other than offenders sentenced to life imprisonment, that consists of a term of confinement in prison of not less than one year, followed by a term of extended supervision of not less than 25% of the length of the term of confinement. Under truth-in-sentencing, a prisoner is required to serve 100% of the sentence. Act 283 also increased the maximum sentences for most felonies by 50%, or one year, whichever was greater. Because truth-in-sentencing applies only to sentences for crimes committed on or after December 31, 1999, the correctional system will, for many years, have offenders sentenced under the old sentencing system and eligible for parole along with offenders sentenced under the new bifurcated system. Upon release from prison, offenders sentenced under the previous system will be placed on parole supervision, while offenders released under truth-in-sentencing will be placed on extended supervision. Unlike parole, Act 283 authorizes judges to impose conditions on the extended supervision term. Act 283 also eliminates the intensive sanctions program as an option for the confinement portion of a bifurcated sentence.

Act 283 created a Criminal Penalties Study Committee to study the classification of criminal offenses in the criminal code, the penalties for all felonies and Class A misdemeanors and issues relating to the implementation of the changes in sentencing made by the Act. In addition, the Committee was required to make recommendations concerning:

a. Creating a uniform classification system for all felonies, including felonies outside the criminal code;

b. Classifying each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification;

c. Consolidating all felonies into a single criminal code;

d. The creation of a sentencing commission to promulgate advisory sentencing guidelines for use by judges when imposing sentence;

e. Temporary advisory sentencing guidelines for use by judges when imposing sentence during the period before the promulgation of advisory sentencing guidelines by a sentencing commission; and

f. Changing the administrative rules of the Department of Corrections to ensure that a person who violates a condition of extended supervision imposed as part of a bifurcated sentence is returned to prison promptly and for an appropriate period of time.

The Criminal Penalties Study Committee first met on August 28, 1998. Act 283 required the Committee to submit a report of its findings and recommendations to the Legislature and Governor by April 30, 1999. The Committee found this deadline unrealistic "in light of the magnitude of the tasks assigned to it" and because it had great difficulty in securing adequate and reliable data. As a result, the Committee requested a deadline extension to August 31, 1999. The Committee submitted its final report to the Legislature and Governor on August 31, 1999, along with proposed legislation that was introduced as 1999 Assembly Bill 465 and 1999 Senate Bill 237. Neither bill was passed by the Legislature in the 1999 Session. In the 2001 session, a similar bill, 2001 Assembly Bill 3, was introduced. Assembly Bill 3, as amended, was passed by the Assembly on February 14, 2001, and Engrossed AB 3 was referred by the Senate to the Senate Judiciary, Consumer Affairs and Campaign Finance Reform Committee.

Summary of Truth-in-Sentencing Provisions Contained in the Bill (SS AB 1)

The bill contains the following provisions related to truth-in-sentencing, which generally would become effective on the first day of the seventh month beginning after publication. The provisions concerning the Joint Review Committee on criminal penalties would take effect on January 1, 2003, and the provisions concerning the Sentencing Commission would take effect on the effective date of the bill.

a. Felony Classification System and Penalty Changes

Under current law, felonies are generally classified into six classes: Class A, B, BC, C, D or E felony. In addition, there are more than 200 other felonies that are not classified. Under the bill, felonies would be classified into nine classes: Classes A through I. The bill reclassifies each current felony, including unclassified felonies, into this new classification scheme.

According to the Committee's final report, each crime was initially placed in the new A-I classification system by first determining the maximum amount of time an offender could serve

in prison under law prior to December 31, 1999. The maximum prison sentence was represented by the mandatory release (MR) date under law prior to December 31, 1999 (generally at two-thirds of the total sentence). The Committee then used this time to roughly parallel the maximum time a person could serve in prison under truth-in-sentencing. Using this system, crimes were initially moved from the six felony classes under current law to the nine classes as follows:

a. Class A felonies became Class A or B felonies.
b. Class B felonies became Class C felonies.
c. Class BC felonies became Class D or E felonies.
d. Class C felonies became Class F or G felonies.
e. Class D felonies became Class H felonies.
f. Class E felonies became Class I felonies.

The Committee then considered each crime to determine whether an up or down adjustment was needed to classify crimes of similar seriousness together. In some cases, new felony and Class A misdemeanor crimes were created to distinguish between differing aspects of a crime (for example, the classifications of theft crimes are based on the value of the amount stolen). The final report listed each felony and Class A misdemeanor and indicated whether: (a) its classification was adjusted upward after application of the MR converter; (b) its classification was adjusted downward after application of the MR converter; (c) its classification reflected the natural placement of the crime in the A-I system after application of the MR converter; (d) its classification represented a significant amendment to current law; or (e) the crime was new. The resulting classification change for each felony and Class A misdemeanor is incorporated in the bill. New penalties enacted by the Legislature since the Committee's final report are modified in the bill using the same classification schema.

In 2001 Act 16, as part of the State Public Defender's base budget reductions, the felony thresholds for the following crimes were raised from $1,000 to $2,500: (1) criminal damage to property; (2) graffiti; (3) theft; (4) fraud on hotel or restaurant keeper or taxicab operator; (5) receiving stolen property; (6) fraudulent insurance and employee benefit claims; (7) financial transaction card crimes; (8) retail theft; (9) theft of library materials; and (10) issuing a worthless check. Act 16 also raised the felony threshold for unlawful receipt of loan payments from $500 to $2,500. Finally, Act 16 changed the range for the Class E felony for property damage to a vending machine from $500 to $1,000, to $500 to $2,500. Under the bill, these felony thresholds and ranges for the above crimes would be lowered to the pre-Act 16 levels. (See "Public Defender.")

Table 1 shows the maximum sentences (confinement in prison plus extended supervision) for the nine felony classes under the bill, compared with statutory provisions before December 31, 1999, and current law after December 31, 1999, as provided in 1997 Act 283.

TABLE 1

Maximum Sentence
(Confinement in Prison Plus Parole or Extended Supervision)

Law Applicable to Crimes Committed:			Governor's Proposal	
	Before 12/31/99	**12/31/99 & After**		
Class A	Life	Life	Class A	Life
			Class B	60 years
Class B	40 years	60 years	Class C	40 years
Class BC	20 years	30 years	Class D	25 years
			Class E	15 years
Class C	10 years	15 years	Class F	12.5 years
			Class G	10 years
Class D	5 years	10 years	Class H	6 years
Class E	2 years	5 years	Class I	3.5 years

Each sentence to prison for crimes committed on or after December 31, 1999 (except life sentences), consists of two parts: (a) a term of prison confinement; and (b) a term of extended supervision (ES). Table 2 shows the maximum time a person could be confined in prison under the different felony classes (excluding time that may be imposed for misconduct in prison or return after revocation), under both Act 283 and the provisions of the bill. The table also shows mandatory release times in effect for crimes committed prior to December 31, 1999.

TABLE 2

Time Confined in Prison for a Maximum Sentence

	Crimes Committed Before 12/31/99		**Crimes Committed 12/31/99 & After**	**Governor's Proposal**	
	Eligible for Parole	Mandatory Release	Release to ES	Release to ES	
Class A	Set by Sentencing Court	N.A.	ES Eligibility Date Set by Sentencing Court	Class A	ES Eligibility Date Set by Sentencing Court
				Class B	40 years
Class B	10 years	26.6 years	40 years	Class C	25 years
Class BC	5 years	13.3 years	20 years	Class D	15 years
				Class E	10 years
Class C	2.5 years	6.6 years	10 years	Class F	7.5 years
				Class G	5 years
Class D	1.25 years	3.3 years	5 years	Class H	3 years
Class E	0.5 years	1.3 years	2 years	Class I	1.5 years

Act 283 set no maximum amount of extended supervision time that a judge could impose at sentencing, except for the maximum sentence lengths. So, as an example, for a Class B felony (which carries a maximum sentence of 60 years), a judge could theoretically set a one-year prison sentence, followed by a 59-year term of extended supervision. The bill would provide statutory caps on the maximum amount of extended supervision time a judge could impose at sentencing. These caps are as follows:

a. Class B: 20 years
b. Class C: 15 years
c. Class D: 10 years
d. Classes E, F and G: 5 years
e. Class H: 3 years
f. Class I: 2 years

As a result of the maximum extended supervision sentences proposed under the bill, if an offender were given a one-year prison sentence for a Class B felony offense, the maximum extended supervision sentence would be 20 years.

Table 3 summarizes the maximum confinement, extended supervision and total sentences under the bill.

TABLE 3

Proposed Penalty Structure Under Bill

Felony Class	Maximum Term of Confinement	Maximum Extended Supervision	Maximum Term of Imprisonment
A	Life		Life
B	40 years	20 years	60 years
C	25 years	15 years	40 years
D	15 years	10 years	25 years
E	10 years	5 years	15 years
F	7.5 years	5 years	12.5 years
G	5 years	5 years	10 years
H	3 years	3 years	6 years
I	18 months	2 years	3.5 years

The bill would also increase certain maximum fines that may be imposed. Under current law, a person convicted of a Class BC, C, D or E felony may be fined up to a maximum amount of $10,000 or imprisoned for a maximum period of time, or both. The bill would increase the maximum fines for Classes C to G felonies, as shown in Table 4 below.

TABLE 4

Maximum Fines

Current Law		Governor's Proposal	
Class A	N.A.	Class A	N.A.
		Class B	N.A.
Class B	N.A.	Class C	$100,000
Class BC	$10,000	Class D	$100,000
		Class E	$50,000
Class C	$10,000	Class F	$25,000
		Class G	$25,000
Class D	$10,000	Class H	$10,000
Class E	$10,000	Class I	$10,000

b. Consecutive and Concurrent Sentences

The bill would create the following definitions: (a) "determinate sentence," a bifurcated sentence or a life sentence under which a person is eligible for release to extended supervision; (b) "indeterminate sentence," a sentence to the Wisconsin state prisons other than a determinate sentence or a sentence under which the person is not eligible for release on parole; and (c) "period of confinement in prison," with respect to any sentence to the Wisconsin state prisons, any time during which a person is incarcerated under that sentence, including any extensions and any period of confinement in prison required to be served as a result of revocation.

Determinate Sentence to Run Concurrently with or Consecutive to Determinate Sentences. The bill would specify that if a court provides that a determinate sentence is to run concurrently with another determinate sentence, the person sentenced would be required to serve the periods of confinement in prison under the sentences concurrently and the terms of extended supervision under the sentences concurrently. If a court provides that a determinate sentence is to run consecutive to another determinate sentence, the person sentenced would be required to serve the periods of confinement in prison under the sentences consecutively and the terms of extended supervision under the sentences consecutively and in the order in which the sentences have been pronounced.

Determinate Sentence to Run Concurrently with or Consecutive to Indeterminate Sentences. The bill would specify that if a court provides that a determinate sentence is to run concurrently with an indeterminate sentence, the person sentenced would be required to serve the period of confinement in prison under the determinate sentence concurrently with the period of confinement in prison under the indeterminate sentence and the term of extended supervision under the determinate sentence concurrently with the parole portion of the indeterminate sentence. If a court provides that a determinate sentence is to run consecutive to

an indeterminate sentence, the person sentenced would be required to serve the period of confinement in prison under the determinate sentence consecutive to the period of confinement in prison under the indeterminate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.

Indeterminate Sentence to Run Concurrently with or Consecutive to Determinate Sentences. The bill would specify that if a court provides that an indeterminate sentence is to run concurrently with a determinate sentence, the person sentenced would be required to serve the period of confinement in prison under the indeterminate sentence concurrently with the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence concurrently with the term of extended supervision required under the determinate sentence. If a court provides that an indeterminate sentence is to run consecutive to a determinate sentence, the person sentenced would be required to serve the period of confinement in prison under the indeterminate sentence consecutive to the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.

Indeterminate or Determinate Consecutive Sentences. The bill would specify that all consecutive sentences for crimes committed before December 31, 1999, be computed as one continuous sentence, and would specify that all consecutive sentences imposed for crimes committed on or after December 31, 1999, be computed as one continuous sentence.

Revocation in Multiple Sentence Cases. The bill would specify that if a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person must concurrently serve any periods of confinement in prison required under those sentences.

No Parole. The bill would clarify that a person serving a bifurcated sentence is not eligible for release on parole under that sentence. (A person may be paroled under an indeterminate sentence running concurrently or consecutively with the bifurcated sentence.)

c. Penalty Enhancers, Minimum Sentences and Mandatory Consecutive Sentences

Under current law, numerous crimes have penalty enhancers that allow the penalties for a crime to be increased if the crime is committed under certain circumstances, have minimum sentence requirements or have mandatory consecutive sentence requirements. With some exceptions described below, the bill would repeal these statutory provisions, and instead include these conditions as sentencing aggravators to be considered by the judge at the time of sentencing for the crime.

The bill would retain the following penalty enhancers without change in the amount by which the maximum term of imprisonment may be increased: (a) use or possession of a dangerous weapon when committing a crime; (b) distribution of controlled substances within 1,000 feet of a school, park correctional institution or certain other facilities; (c) committing a violent crime in a school zone; (d) increased penalty for certain domestic abuse offenses; and (e) "hate crimes". In addition, the penalty enhancers related to distribution of a controlled substance to a person under 17 years of age, habitual criminals and second and subsequent drug offenses would be maintained but the maximum sentence lengths would be modified. The bill also specifies that a person sentenced to prison for a misdemeanor crime (possible under penalty enhancer provisions) would receive a bifurcated sentence.

In regard to minimum sentences, the bill would: (a) not change mandatory life imprisonment for Class A felonies; (b) not change the provisions of the persistent repeater ("three strikes" or "two strikes") statute which, if invoked, mandate life imprisonment; and (c) maintain the structure of minimum mandatory penalties for repeat operating-while-intoxicated (OWI) offenders. For the repeat serious sex crimes and repeat serious violent crimes penalty enhancers, the minimum applicable sentence length would be reduced.

d. Extended Supervision and Its Revocation

In addition to establishing statutory caps on the maximum amount of ES time a judge may impose at sentencing, the bill would make the following changes concerning extended supervision.

Petitions to Modify ES Conditions. Under the bill, an offender or the Department of Corrections would be allowed to petition the sentencing court to modify any conditions of the extended supervision set by the court. The court could conduct a hearing to consider the petition and could grant the petition in full or in part if it determines that the modification would meet the needs of the Department and the public and would be consistent with the objectives of the person's sentence. The offender or the Department could appeal any such order, and the appellate court could reverse the order only if it determines that the sentencing court erroneously exercised its discretion in granting or denying the petition. Limits would be placed on how often and when an offender could petition the court.

Sanctions for Violations of ES Conditions. The bill would create a new sanction under which if a person on ES signs a statement admitting a violation of a condition, Corrections could, as a sanction for the violation, confine the person for up to 90 days in a regional detention facility or, with the approval of the sheriff, in a county jail. If a county jail were used, Corrections would be required to reimburse the county for its actual costs of confining the person.

Court Determination of Length of Revocation. Under current law, for those on parole or ES, revocation of parole or ES and the length of time that an offender is returned to prison is decided by Corrections, if the offender waives a hearing, or by an administrative law judge

(ALJ), if a hearing is held. Under the bill, Corrections or the ALJ would continue to make the revocation decision; however, for those on ES, the sentencing court would order the person to be returned to prison and would determine the length of time the offender would be returned to prison, not to exceed the time remaining on the bifurcated sentence, after receiving a recommendation from Corrections or the ALJ. The bill would also allow the use of videotaped depositions in hearings before an ALJ, and would allow proceedings relating to the same person to be consolidated. Corrections, if the decision was not to revoke, or the person on ES, if the decision was to revoke, could seek review of the ALJ decision by an action for certiorari.

e. Geriatric and Medical Release

Act 283 provides no mechanism for early release from the prison portion of a bifurcated sentence under truth-in-sentencing. The bill would authorize a procedure under which an inmate serving a bifurcated sentence for a crime other than a Class B felony (Class A felony sentences are not bifurcated) could petition to have his or her prison sentence reduced, with a corresponding increase in the ES sentence, if: (a) the inmate is 65 years of age or older and has served at least five years in prison; (b) the inmate is 60 years of age or older and has served at least ten years in prison; or (c) the inmate has a terminal condition, defined as an incurable condition resulting in a medical prognosis of a life expectancy, even with available life-sustaining treatment, of six months or less.

f. Criminal Attempt

Under current law, an attempt to commit a felony or certain other specified crimes is subject to a penalty not to exceed one-half of the maximum penalty for the completed crime, with certain exceptions. The bill would delete the current law provision that specifies that attempted battery to a law enforcement officer, fire fighter, probation, extended supervision and parole agents or aftercare agents is a Class A misdemeanor, thus treating these attempted offenses as are other attempted crimes, described below.

The bill would specify that the maximum penalty for an attempt to commit a crime is: (a) a maximum fine of one-half of the maximum fine of the completed crime; (b) a maximum term of imprisonment of one-half of the completed crime, as increased by any penalty enhancers; and (c) if the habitual criminal or second or subsequent drug offense provisions are being applied, a maximum term of imprisonment of one-half of the completed crime as increased by any penalty enhancers, plus any habitual criminal or second or subsequent drug offense penalty enhancer. The bill would create an exception for Class I felonies by specifying that whoever attempts to commit a Class I felony is guilty of a Class A misdemeanor (the provision would not apply to crimes subject to certain penalty enhancers).

The bill would specify the maximum term of confinement for an attempt to commit a crime is as follows: (a) for an attempt to commit a classified felony for which an habitual criminal or second or subsequent drug offense penalty enhancer is not being applied, one-half of the maximum confinement time for the completed crime as increased by any penalty

enhancer statutes; (b) for an attempt to commit a classified felony for which an habitual criminal or second or subsequent drug offense penalty enhancer is being applied, one-half of the maximum confinement time for the completed crime as increased by any penalty enhancer statutes plus any habitual criminal or second or subsequent drug offense penalty enhancer; and (c) for attempt to commit an unclassified felony, 75% of the maximum penalty for the attempted crime.

g. Not Guilty by Reason of Mental Disease or Defect

The bill would specify that when a defendant is found not guilty by reason of mental disease or mental defect for a felony committed on or after the effective date of the bill, the court would be required to commit the person to the Department of Health and Family Services for a specified period not exceeding the maximum term of confinement in prison that could be imposed on an offender convicted of the same crime, including imprisonment authorized by any applicable penalty enhancement statutes.

h. Sentencing Commission

The bill would create a 21-member Sentencing Commission, attached to the Department of Administration, consisting of the following members:

1. The Attorney General or his or her designee.

2. The State Public Defender or his or her designee.

3. Seven members, at least two of whom are not employed by any unit of federal, state or local government, appointed by the Governor.

4. One majority party member and minority party member from each house of the Legislature, appointed in the same manner as the members of standing committees in their respective houses.

5. Two circuit judges, appointed by the Supreme Court.

6. One representative of crime victims and one district attorney, each appointed by the Attorney General.

7. One attorney in private practice engaged primarily in the practice of criminal defense, appointed by the criminal law section of the State Bar of Wisconsin.

8. The Secretary of Corrections or his or her designee, as a nonvoting member.

9. The Chairperson of the Parole Commission or his or her designee, as a nonvoting member.

10. The Director of State Courts or his or her designee, as a nonvoting member.

Nonspecified members would serve three-year terms, except for certain initial staggered terms, and be eligible for reappointment. The Governor would annually designate one member as Chairperson.

The Sentencing Commission would be required to do all of the following:

1. Select an executive director having appropriate training and experience to study sentencing practices and prepare proposed sentencing guidelines;

2. Monitor and compile data regarding sentencing practices in the state;

3. Adopt advisory sentencing guidelines for felonies committed on or after the effective date of the bill, to promote public safety, to reflect changes in sentencing practices and to preserve the integrity of the criminal justice and correctional systems. Guidelines and standards adopted by the Commission would not be subject to the administrative rules process;

4. Provide information to the Legislature, state agencies and the public regarding the costs to and other needs of the Department of Corrections which result from sentencing practices;

5. Provide information to judges and lawyers about the sentencing guidelines;

6. Publish and distribute to all circuit judges hearing criminal cases an annual report regarding its work, which must include all sentencing guidelines and all changes in existing sentencing guidelines adopted during the preceding year;

7. Study whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the Governor, to each house of the Legislature and to the Supreme Court;

8. Assist the Legislature in assessing the cost of enacting new or revising existing statutes affecting criminal sentencing;

9. Study how sentencing options affect various types of offenders and offenses; and

10. At least semiannually, submit reports to all circuit judges, and to the appropriate standing committees of the Legislature, that contain statistics regarding criminal sentences. Each semiannual report would be required to have a different focus and need not contain statistics regarding every crime. Further, each report would be required to contain information regarding sentences imposed statewide and in each of the following geographic areas: (a)

Milwaukee County; (b) Dane and Rock counties; (c) Brown, Outagamie, Calumet and Winnebago counties; (d) Racine and Kenosha counties; and (e) all other counties.

The bill would provide $140,000 GPR in 2002-03 and 6.0 GPR positions, including an unclassified executive director and an unclassified deputy director. Under the bill, the Sentencing Commission would sunset on December 31, 2007.

i. Criminal Penalties Study Committee Extension

The bill would direct the Criminal Penalties Study Committee to continue to provide information to lawyers, judges, the Legislature and the public concerning changes made in the substance and structure of criminal penalties to be imposed under the bill until members of the Sentencing Commission are appointed. The bill would also retroactively delete the April 30, 1999, due date for the Committee's final report.

j. Sentencing Guidelines and Consideration of Aggravating and Mitigating Factors

The bill would require judges, when making a sentencing decision for an offense committed on or after December 31, 1999, to consider: (a) if the offense is a felony, the sentencing guidelines adopted by the Sentencing Commission or, if a guideline has not been adopted for the offense, any applicable temporary sentencing guideline adopted by the Criminal Penalties Study Committee; (b) the protection of the public; (c) the gravity of the offense; (d) the rehabilitative needs of the defendant; and (e) any applicable mitigating and aggravating factors. The bill specifies general aggravating factors that must be considered and also specifies aggravating factors related to serious sex crimes committed while infected with certain diseases, violent felonies committed against elder persons, child sexual assault, homicide or injury by intoxicated use of a vehicle and controlled substances offenses. The general and specific aggravating factors specified by statute replace their designations under current law as penalty enhancers.

The requirement that a judge consider applicable sentencing guidelines would not require the judge to make a sentencing decision consistent with the guidelines. The bill would require a judge to state the reasons for the sentencing decision. There would be no right to appeal a sentencing decision based on the judge's departure from any guideline. In any appeal of a sentencing decision, the appellate court could reverse the sentencing decision only if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision.

k. Joint Review Committee on Criminal Penalties

The bill would create a joint review committee on criminal penalties consisting of the following 11 members: (1) one majority party member and one minority party member from each house of the Legislature, appointed in the same manner as the members of the standing

committees of each house; (2) the Attorney General or his or her designee; (3) the Secretary of Corrections or his or her designee; (4) the State Public Defender or his or her designee; (5) two reserve judges who reside in the 1st to 5th and 6th to 10th judicial administrative districts, respectively, appointed by the Supreme Court; and (6) two members of the public appointed by the Governor, one with law enforcement experience in this state and one an elected county official. The bill specifies that the majority party Senator and the majority party Representative of the Assembly serve as co-chairpersons of the joint review committee. The committee would be required to elect a secretary from among its nonlegislator members. The judicial and public members of the committee would serve at the pleasure of the appointing authority. The bill provides that a member would cease to be a member upon losing the status upon which the appointment is based. The bill also provides that membership on the committee would not be incompatible with any other public office.

The bill would require the joint review committee to submit a report to the Legislature and the Governor, no later than July 1, 2003, containing recommendations regarding standards and procedures to be used by a court to modify a bifurcated sentence. The report would be required to include any proposed legislation that is necessary to implement the recommendations. Any proposed legislation must provide that a bifurcated sentence that a court previously imposed could be modified only by reducing the term of confinement in prison portion of the sentence and lengthening the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed would not change.

The joint review committee would further be required to review legislation relating to crimes. This review function applies to any bill that proposes to create a new crime or revise a penalty for an existing crime. The bill provides that the chairperson of a standing committee to which such a bill has been referred may request the joint review committee to review and prepare a report on the bill. If the bill is not referred to a standing committee, the Speaker of the Assembly, if the bill is introduced in the Assembly, or the presiding officer of the Senate, if the bill is introduced in the Senate, may request the joint committee to review and prepare a report on the bill. The bill requires that the report prepared by the joint review committee address all of the following: (a) costs that are likely to be incurred or saved by the Department of Corrections, the Department of Justice, the State Public Defender, the courts, district attorneys and other state and local government agencies if the bill is enacted; (b) the consistency of penalties proposed in the bill with existing criminal penalties; (c) alternative language needed, if any, to conform any penalties proposed in the bill to penalties in existing criminal statutes; and (d) whether acts prohibited under the bill are prohibited under existing criminal statutes.

The bill would preclude a standing committee to which a bill creating a new crime or revising a penalty for an existing crime is referred from voting on whether to recommend the bill for passage, and prohibits any such bill from passing in its house of origin, before the joint review committee has submitted its report or before the 30th day after the report is requested, whichever is earlier.

The joint review committee would meet at the call of its co-chairpersons and be authorized to hold hearings to elicit information needed to develop proposed legislation containing recommendations regarding sentence modifications or to develop reports on other criminal penalty bills.

Joint Finance: Include provision, modified as follows: (a) provide an additional $144,800 in 2002-03 to support the costs of 4.0 of the 6.0 positions created in the bill (funding in the bill as introduced supports 2.0 positions); and (b) modify the membership of the Sentencing Commission to delete one district attorney appointed by the Attorney General and instead provide for one prosecutor appointed by the Attorney General.

Assembly: Delete $144,800 in 2002-03 provided under the Joint Finance provision for 4.0 Sentencing Commission staff. In addition, require the court to make explicit findings of fact on the record to support each element of its sentencing decision, including its decision as to whether to impose a bifurcated sentence or to place a person on probation and its decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of the fine and the length of a term of probation.

Senate: Include Joint Finance modifications to the truth-in-sentencing provisions. Include an identical provision to that of the Assembly related to requiring a court to make explicit findings of fact on the record to support each element of its sentencing decision.

Sentence Modifications. Delete the Governor's provision (also included by Joint Finance) related to the joint review committee's report and proposed legislation on standards and procedures to be used by a court to modify a bifurcated sentence.

Specify that an inmate who is serving a bifurcated sentence for a crime other than a Class B felony may petition the sentencing court to adjust the sentence if the inmate has served at least 25% of the term of confinement in prison to which the inmate was originally sentenced. In general, require that the only sentence adjustments that a court may make are as follows: (a) if the inmate is serving a term of confinement, the court may reduce the term of confinement, less up to 30 days, and impose a corresponding increase in the term of extended supervision; or (b) if the inmate is confined in prison upon revocation of extended supervision, the court may reduce the amount of time remaining in the period of confinement imposed upon revocation, less up to 30 days, and provide a corresponding increase in the term of extended supervision.

Specify that an inmate may petition for a sentence adjustment upon any of the following grounds: (a) the inmate's rehabilitation; (b) a change in law or procedure occurring after the inmate's sentencing that would have resulted in a shorter term of confinement in prison or, if the inmate were returned to prison upon revocation of extended supervision, a shorter period of confinement in prison upon revocation; (c) the inmate is subject to a sentence of confinement in another state or the inmate is in the United States illegally and may be deported; or (d) sentence adjustment is otherwise in the interests of justice.

Specify that upon receipt of a petition, the sentencing court may deny the petition or hold the petition for further consideration. If the court holds the petition for further consideration, require that the court notify the district attorney of the petition. Specify that if the district attorney objects to an adjustment of the sentence within 45 days of receiving notification, the court must deny the petition. Require that if the sentence for which the inmate seeks adjustment involves a second- or third-degree sexual assault, a second-degree sexual assault of a child or solicitation of a child for prostitution and the district attorney does not object within ten days of receiving notice, the victim must be notified by the district attorney and the court must deny the petition if the victim objects to adjustment within 45 days of being notified.

Specify that if no objection is raised by the district attorney, or the victim in the cases specified above, and the court determines that sentence adjustment is in the public interest, the court may adjust the inmate's sentence. Require the court to include in the written record reasons for any sentence adjustment.

Specify that if the court adjusts a sentence based on a change in law or procedure and the total sentence length of the adjusted sentence is greater than the maximum sentence the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the court may reduce the length of the term of extended supervision so that the total sentence length does not exceed the maximum sentence that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced. Further specify that if the court adjusts a sentence based on a change in law or procedure and the adjusted term of extended supervision is greater than the maximum term of extended supervision the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the court may reduce the length of the term of extended supervision so that the term of extended supervision does not exceed the maximum term of extended supervision that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced.

Specify that if an inmate's petition is denied, the inmate may not submit another petition concerning the same sentence within three years of the date that the petition was denied. An inmate may submit no more than two petitions for each sentence.

Specify that an inmate also may petition the sentencing court for a reduction in the term of extended supervision under the same conditions described above for a reduction in the term of confinement if all of the following apply: (a) the inmate is serving a term of extended supervision for a crime other than a Class B felony; (b) the person has served at least 25% of the term of extended supervision; and (c) there has been a change in law or procedure related to sentencing or revocation of extended supervision effective after the inmate was sentenced that would have resulted in either a shorter total sentence or a shorter term of extended supervision had the change been applicable when the person was sentenced.

Specify that if no objection is raised by the district attorney, or the victim in the cases specified above, and the court determines that adjustment of the extended supervision term is in the public interest, the court may adjust the inmate's extended supervision term so that the total sentence length and the term of extended supervision are no longer than they could have been if the change in law or procedure had been applicable at the time the person was sentenced. Require the court to include in the written record reasons for any sentence adjustment.

In order to apprise persons serving a bifurcated sentence, or serving probation after a bifurcated sentence has been imposed and stayed, require the Department of Corrections to notify these persons of the changes in the truth-in-sentencing law and calculate the maximum terms of imprisonment, confinement, and extended supervision to which the persons would have been subject if all of the provisions of the law had been in effect on the date on which the inmates committed their offenses. Require Corrections to notify persons still serving a sentence or on probation of the results of the calculations no later than the first day of the ninth month after publication of the bill.

Specify that a sentence adjustment does not affect a person's right to file a petition for sentence modification under current law or to petition the sentencing court for sentence modification on the basis of a new factor. Sentence modifications would become effective on the first day of the seventh month after publication of the bill.

Court-Ordered Drug Treatment. Specify that when the court imposes a sentence or places a person on probation for any offense, the court may order the person to participate in a drug treatment program as a condition of probation, or while in prison or as a condition of extended supervision, or both. Specify that the court may order Corrections to pay for the cost of drug treatment while the offender is in jail or prison, or on probation or extended supervision. Court-ordered drug treatment provisions would become effective and first apply to offenses committed on the first day of the seventh month after publication of the bill.

Standard of Review on Appeal. Specify that in an appeal from a court's sentencing decision, the appellate court is required to reverse the sentencing decision if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision or there is not substantial evidence in the record to support the sentencing decision.

Effectiveness of Probation, Parole and Extended Supervision. Require Corrections to take steps to promote the increased effectiveness of probation, extended supervision and parole in Brown, Dane, Kenosha, Milwaukee, Racine and Rock counties. Require that in each of these counties, Corrections, beginning ten months after the effective date of the bill, develop a partnership with the community, have strategies for local crime prevention, supervise offenders actively, commit additional resources to enhance supervision and purchase services for offenders, establish day reporting centers and ensure that probation, extended supervision and parole agents, on average, supervise no more than 25 persons on probation, extended supervision or parole.

Require that four months after the effective date of the bill, Corrections begin to reduce caseloads in these counties. Require that no later than two months after the effective date of the bill, Corrections develop a plan for implementing the provisions and submit that plan to the Joint Committee on Finance.

Sentencing Guidelines Adopted as Administrative Rules. Require that guidelines and standards adopted by the Sentencing Commission be subject to the administrative rules process.

Conference Committee/Legislature: Include the Joint Finance provision. Modify the provision relating to standard of review on appeal to specify that a sentencing decision could also be reversed if there is not substantial evidence in the record to support the sentencing decision.

Further, specify that an inmate who is serving a bifurcated sentence for a crime other than a Class B felony may petition the sentencing court to adjust the sentence if the inmate has served at least the "applicable percentage" of the term of confinement in prison to which the inmate was originally sentenced. Specify that the applicable percentage is 85% of the term of confinement in prison for a Class C to E felony and 75% for a Class F to I felony. In general, require that the only sentence adjustments that a court may make are as follows: (a) if the inmate is serving a term of confinement, the court may reduce the term of confinement, less up to 30 days, and impose a corresponding increase in the term of extended supervision; or (b) if the inmate is confined in prison upon revocation of extended supervision, the court may reduce the amount of time remaining in the period of confinement imposed upon revocation, less up to 30 days, and provide a corresponding increase in the term of extended supervision.

Specify that an inmate may petition for a sentence adjustment upon any of the following grounds: (a) the inmate's rehabilitation; (b) a change in law or procedure occurring after the inmate's sentencing that would have resulted in a shorter term of confinement in prison or, if the inmate were returned to prison upon revocation of extended supervision, a shorter period of confinement in prison upon revocation; (c) the inmate is subject to a sentence of confinement in another state or the inmate is in the United States illegally and may be deported; or (d) sentence adjustment is otherwise in the interests of justice.

Specify that upon receipt of a petition, the sentencing court may deny the petition or hold the petition for further consideration. If the court holds the petition for further consideration, require that the court notify the district attorney of the petition. Specify that if the district attorney objects to an adjustment of the sentence within 45 days of receiving notification, the court must deny the petition. Require that if the sentence for which the inmate seeks adjustment involves a second- or third-degree sexual assault, a second-degree sexual assault of a child or solicitation of a child for prostitution and the district attorney does not object within ten days of receiving notice, the victim must be notified by the district attorney and the court must deny the petition if the victim objects to adjustment within 45 days of being notified.

Specify that if no objection is raised by the district attorney, or the victim in the cases specified above, and the court determines that sentence adjustment is in the public interest, the court may adjust the inmate's sentence. Require the court to include in the written record reasons for any sentence adjustment.

Specify that if the court adjusts a sentence based on a change in law or procedure and the total sentence length of the adjusted sentence is greater than the maximum sentence the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the court may reduce the length of the term of extended supervision so that the total sentence length does not exceed the maximum sentence that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced. Further specify that if the court adjusts a sentence based on a change in law or procedure and the adjusted term of extended supervision is greater than the maximum term of extended supervision the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the court may reduce the length of the term of extended supervision so that the term of extended supervision does not exceed the maximum term of extended supervision that the offender could have received if the change in law or procedure had been applicable when the inmate was originally sentenced.

Specify that an inmate may submit only one petition for each sentence.

Delete the provision related to the joint review committee's report and proposed legislation on standards and procedures to be used by a court to modify a bifurcated sentence.

Veto by Governor [D-10, D-11 and D-12]: Reduce funding for the Sentencing Commission by $144,800 in 2002-03 by deleting the 2002-03 appropriation amount of $284,800 and replacing it with a lower amount of $140,000. Delete the provision specifying that in an appeal from a court's sentencing decision, the appellate court may reverse the sentencing decision if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision or there is not substantial evidence in the record to support the sentencing decision. Further, delete the sentence calculation provisions relating to the order in which the parole portion of an indeterminate sentence and the extended supervision portion of a determinate sentence must be served under consecutive sentences.

[Act 109 Sections: 1bh, 2, 3 thru 6, 8, 10, 13, 14, 24, 25, 26 (as it relates to s. 20.505(4)(dr)), 47, 48, 69, 71, 73, 84, 85, 86, 87, 88, 89 thru 93, 101, 102b, 103, 104b, 110, 111, 112, 113, 114b, 115 thru 119, 120, 121, 123 thru 128, 141 thru 145, 146 thru 148, 149, 150, 154 thru 156, 157, 232, 259, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270 thru 274, 275 thru 278, 280, 281, 289 thru 298, 299 thru 303, 316 thru 322, 324, 325, 335, 336, 337, 338, 341 thru 343, 344 thru 346, 347 thru 353, 354 thru 357, 359, 363, 364, 369, 370, 371, 372, 373, 375 thru 377, 378, 379, 380 thru 382, 384 thru 420, 422 thru 427, 429, 431, 432, 433 thru 435, 436 thru 439, 440, 441, 442, 443 thru 461, 462 thru 464, 465, 466 thru 473, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517 thru 519, 524, 528,

529, 530, 531, 532b, 533b, 534, 535, 536 thru 559, 560 thru 565, 566f thru 582, 583 thru 622, 624 thru 657, 658b, 659b, 660b, 662 thru 695, 697 thru 702, 704, 705, 707 thru 713, 715 thru 723, 725 thru 740, 742 thru 750, 752 thru 767, 769 thru 774, 776 thru 788, 790 thru 793, 796, 799 thru 810, 811, 812, 813 thru 874, 875b thru 877, 878 thru 886, 887 thru 904, 905 thru 910, 911 thru 1108, 1109 thru 1131, 1132, 1133, 1134g thru 1138, 1141 thru 1151, 1157, 9101(2),(3)&(4), 9332(1), 9359(3),(4)&(5), 9432(1) and 9459(1)]

[Act 109 Vetoed Sections: 26 (as it relates to s. 20.505(4)(dr)), 1135 and 1142]

2. INVASION OF PRIVACY ("PEEPING TOM") PROVISIONS

Assembly: Include the provisions of 2001 Senate Bill 371, as amended by LRB 1358/1, which prohibit a person from doing any of the following: (a) looking into a private place in which a person may reasonably be expected to be nude or partially nude, if the person looking does so for the purpose of sexual arousal or gratification and without the consent of any person who is present in the private place; or (b) entering private property without consent of any person present on the property and, for the purpose of sexual arousal or gratification, with the intent to intrude upon or interfere with the privacy of another, and without the consent of any person who is present in the dwelling, look into the dwelling of another. Specify that a person who violates either of these "peeping tom" prohibitions is guilty of a Class A misdemeanor (subject to a fine of not more than $10,000 or imprisonment of not more than nine months or both). Specify that a court may require anyone who violates one of the "peeping tom" prohibitions, or who violates the existing prohibition regarding installing or using a surveillance device in a private place to observe a nude or partially nude person without that person's consent, to register with the Department of Corrections as a sex offender.

Create provisions allowing the expungment of a delinquency adjudication or a conviction based on a violation of one of the "peeping tom" prohibitions. Require a court to expunge a juvenile's delinquency adjudication if it was the first adjudication for a "peeping tom" violation and if he or she complied with the dispositional order. Require a court to order that the record of a person's "peeping tom" conviction be expunged upon successful completion of the sentence if the person was under 18 years old at the time of the offense and he or she had no prior "peeping tom" convictions. Finally, specify that if a person's delinquency adjudication or conviction record is expunged in this manner, the person would no longer be required to register as a sex offender and Corrections would be required to expunge the record of the person's delinquency adjudication or conviction from the sex offender registry, unless the person is required to register as a sex offender based on the commission of another sex offense.

Senate/Legislature: Delete provision.

3. USING A COMPUTER TO FACILITATE SEXUAL CONTACT

Assembly: Include the provisions of 2001 Assembly Bill 719, as amended by Assembly Amendment 1, which would create a new crime involving the use of a computer with intent to commit certain sex offenses against a person believed to be a child. Specify that no person may, with intent to have sexual contact or sexual intercourse with the individual, intentionally use a computerized communication system to communicate with an individual who the person believes, or has reason to believe, has not attained the age of 16 years. Provide that the prohibition would not apply if the person sending the communication reasonably believed that the age of the individual to whom the communication was sent was no more than 24 months less than the sender's own age. Specify that proof that an offender did an act, other than the use of a computerized communication system, is necessary to prove intent.

Specify that the new offense would first apply to crimes committed on the effective date of the bill and would be classified as a Class BC felony (a maximum total sentence of 30 years, including a maximum of 20 years imprisonment). On the first day of the seventh month after publication of the bill, reclassify the offense as a Class D felony in connection with the truth-in-sentencing provisions included in the bill (a maximum total sentence of 25 years, including a maximum of 15 years imprisonment).

Require that persons convicted of the offense comply with the reporting requirements of the sex offender registry unless, as under current law, the court determines that, based on the age of the offender and the victim, registration is not necessary. Allow a court to require that an offender convicted of the offense be placed on lifetime supervision for serious sex offenders. Prohibit certain persons convicted of the offense from engaging in an occupation or participating in a volunteer position that requires the person to work or interact primarily and directly with children under 16 years of age. Include the offense as a serious felony offense under the "three-strikes" law. Include the offense under the current law time limits on prosecution for certain child sexual offenses which specify that prosecution must be commenced before the victim reaches 31 years of age. Include the offense among the current law offenses for which a court may establish a parole eligibility date. (It should be noted that since the offense applies only to crimes committed on or after the effective date of the bill and since individuals sentenced for crimes occurring on or after December 31, 1999, are not eligible for parole, the parole eligibility provision is not necessary).

Include the offense with other offenses that the Department of Justice is required to enforce. Specify that offenders convicted of the offense are not eligible for the Department of Corrections' challenge incarceration program (boot camp).

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 149f, 338t, 378p, 379v, 531b, 559v, 566d, 566f, 582p, 886f, 904m, 904n, 910v, 1108d, 1131m, 1134f, 1134g, 1138k, 1138n, 9359(3) and 9459(1)]

4. THREATS TO RELEASE HARMFUL SUBSTANCES, PENALTIES AND JUVENILE DISPOSITIONS

Senate: Incorporate the provisions of 2001 Senate Bill 462 relating to chemical or biological scares. Provide that whoever, knowing the threat to be false, intentionally threatens to release or disseminate a harmful substance or conveys a threat to release or disseminate a harmful substance, if the threat induces a reasonable expectation or fear that a harmful substance will be released or disseminated, is guilty of a Class E felony (reclassified to a Class I felony on the first day of the seventh month beginning after publication of the bill). Provide that a harmful substance would be defined as a toxic or poisonous chemical or its precursor or a disease organism.

Provide that, for juveniles under 14 years of age, in addition to any other disposition imposed under the juvenile code, the court may impose certain other dispositions if the juvenile is found to have violated one of the following: (a) the prohibition, under current law, of bomb scares and the property involved is a school premises; (b) the prohibition, created under these provisions, of threats to release a harmful substance and the threat concerned release or dissemination of a harmful substance on a school premises; or (c) the prohibition, under current law, of the possession or discharge of a firearm in a school zone. For these violations, the court would be allowed to order any one or more of the following dispositions: (a) that the juvenile participate in anger management counseling or any other counseling ordered by the court; (b) that the juvenile participate for 100 hours in a supervised work program or perform 100 hours of other community service work, unless the court determines that the juvenile would pose a threat to public safety while participating in that program or other community service work; or (c) that the juvenile's vehicle operating privilege be restricted or suspended for two years, except that the court may restrict or suspend a juvenile's operating privilege only if the court finds that the juvenile used a motor vehicle to facilitate the commission of the violation. If the court restricts or suspends a juvenile's operating privilege, the court would be required to immediately forward to the Department of Transportation (DOT) notice of the restriction or suspension, clearly stating the reason for and duration of the restriction or suspension. If the juvenile's license or operating privilege is currently suspended or revoked or if the juvenile does not currently possess a valid operator's license, the restriction or suspension would be effective on the date on which the juvenile is first eligible for issuance or reinstatement of an operator's license. The treatment of the additional juvenile disposition options would first apply to applicable violations committed on the effective date of the bill.

Conference Committee/Legislature: Delete provision.

UNIVERSITY OF WISCONSIN SYSTEM

1. BASE BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $50,000,000	- $10,374,600	$23,374,600	- $37,000,000

Governor: Reduce the agency's largest general program operations appropriation by $10,000,000 in 2001-02 and $40,000,000 in 2002-03. These amounts represent 1.2% in 2001-02 and 4.5% in 2002-03 of the UW-System's GPR appropriations for education, research and public service, excluding debt service and energy costs.

Joint Finance: Reduce the UW System's largest GPR state operations appropriation by an additional $9,152,900. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s.13.10 to reallocate any amount of this 1% reduction to any of the UW System's other sum certain, state operations appropriations funded from GPR.

In addition, reduce the following GPR appropriations by a total of $1,221,700 in 2002-03. These amounts represent 3.5% of these general program operations appropriations in 2002-03.

	2002-03 Reduction Amount
Industrial and Economic Development Research	- $56,100
Area Health Education Centers	-40,500
Educational Technology	-226,900
Schools of Business	-54,500
Department of Family Medicine and Practice	-275,200
State Lab of Hygiene: General Program Operations	-268,500
Veterinary Diagnostic Lab	-152,400
Laboratories	-147,600
Total	- $1,221,700

Assembly: Reduce the UW System's largest GPR state operations appropriation by an additional $4,576,500. This amount represents an additional 0.5% reduction in the UW System's state GPR operations appropriations in 2002-03. Provide that the UW System may submit a request to the Joint Committee on Finance under s.13.10 to reallocate any amount of this 0.5% reduction to any of its other sum certain, state operations appropriations funded from GPR.

Senate: Modify Joint Finance by restoring $40,374,600 in 2002-03. Provide $39,152,900 to the UW System's largest general program operations appropriation and $1,221,700 to the UW System's other state operations appropriations. The net budget reduction to the UW System's largest general program operations appropriation would be $10,000,000 annually, and the other appropriations would be unchanged from current law.

Conference Committee/Legislature: Restore $23,374,600 by providing $22,152,900 to the UW System's largest general program operations appropriation and $1,221,700 to the UW System's other state operations appropriations. The net budget reduction to the UW System's largest general program operations appropriation would be $10,000,000 in 2001-02 and $27,000,000 in 2002-03 and the other appropriations would be unchanged from current law.

[Act 109 Section: 9256(2)]

2. UW SYSTEM ADMINISTRATION BASE BUDGET REDUCTION

GPR	- $533,400

Governor: Reduce the UW-System administration appropriation by $97,000 in 2001-02 and $436,400 in 2002-03. These amounts represent 1% of the UW-System's GPR appropriation for system administration in 2001-02 and 4.5% in 2002-03.

Senate: Modify Governor by restoring $339,400 in 2002-03 to the UW System administration appropriation.

Conference Committee/Legislature: Include the Governor's recommendation.

[Act 109 Section: 9256(3)]

3. NON-RESIDENT STUDENT TUITION AND BASE REDUCTION

Assembly: Require the UW Board of Regents to implement a 10% non-resident undergraduate tuition surcharge in 2002-03 and reduce the UW System general program operations appropriation by $9,400,000 GPR in 2002-03 and reestimate tuition funding by $9,400,000 PR in 2002-03. The surcharge would not apply to Minnesota-Wisconsin reciprocity students.

Senate/Legislature: Delete provision.

4. UW SYSTEM TRAVEL EXPENDITURES AND BASE BUDGET REDUCTION

Assembly: Reduce the UW System's largest state operations appropriation by $8,500,000 GPR in 2002-03 to eliminate an estimated 50% of the UW System's GPR funding used for travel expenditures.

Senate/Legislature: Delete provision.

5. PROHIBIT GPR FUNDED ADVERTISING EXPENDITURES

Assembly: Prohibit the UW System from using GPR funds for advertising expenses. Reduce the UW System's largest state operations appropriation by $4,000,000 GPR in 2002-03 to eliminate the estimated GPR funding used to support the UW System's GPR advertising expenditures.

Senate/Legislature: Delete provision.

6. UNDERGRADUATE COURSEWORK BEYOND 165 CREDITS

	Legislature	Veto (Chg. to Leg)	Net Change
GPR	- $6,700,000	$0	- $6,700,000
PR	6,700,000	- 6,700,000	0
Total	$0	- $6,700,000	- $6,700,000

Assembly/Legislature: Require the UW System Board of Regents to charge students the full cost-per-credit for any credits beyond 165 credits accumulated in coursework towards a first baccalaureate degree. Reduce the UW System general program operations appropriation by $6,700,000 GPR in 2002-03 to reflect a reduction in GPR support for these credits and reestimate tuition funding by $6,700,000 PR in 2002-03 for estimated increases in tuition revenues.

Veto by Governor [A-4]: Delete the provisions related to requiring the Board of Regents to charge students the full cost-per-credit for any credits beyond 165 credits, but retain the Act 109 reduction of $6,700,000 GPR in 2002-03. Because the UW's tuition appropriation allows the expenditure of all revenues received, the effect of the Governor's veto is to decrease estimated PR funding from tuition by $6,700,000 in 2002-03.

[Act 109 Section: 9256(2x)]

[Act 109 Vetoed Sections: 93r, 93s, 9101(8w) and 9256(2x)]

7. DELETE STUDY ABROAD SCHOLARSHIPS

Assembly: Eliminate the UW System study abroad scholarship program with $1,000,000 GPR in 2002-03.

Senate/Legislature: Delete provision.

8. COURSE RETAKE SURCHARGE

Assembly: Require the UW-System Board of Regents to impose a 100% per credit tuition surcharge for courses that are retaken because of failure on the first attempt. Under current law, National Guard members, if activated, must be offered an incomplete or reimbursement of fees.

Senate/Legislature: Delete provision.

9. RESIDENT UNDERGRADUATE TUITION INCREASE LIMIT [LFB Paper 1260]

Governor: Restrict the UW-System Board from increasing tuition for resident undergraduate students in 2002-03 by an amount that exceeds 10% of the tuition charged to resident undergraduate students in the 2001-02 academic year unless the Board obtains the approval of the Joint Committee on Finance under s.13.10 of the statutes and the approval of the DOA Secretary. Provide that the Board could increase tuition beyond the 10% limit for differential tuition initiatives in 2002-03 that are approved by the Board, and that are not already included in the tuition appropriation schedule. Specify that the Board could not increase differential tuition for 2002-03 to offset GPR funding reductions in the general program operations appropriations for university education, research and public service, and for university system administration.

Under current law, the Board is restricted from increasing tuition, including differential tuition, for resident undergraduate students beyond an amount sufficient to fund the following: (a) the amount shown in the appropriation schedule for the tuition appropriation; (b) approved compensation and fringe benefits adjustments for faculty and staff; (c) revenue losses caused by unforeseen enrollment changes; (d) state imposed costs not covered by GPR as determined by the Board; (e) distance education, intersession and nontraditional courses; and (f) differential tuition that is approved by the Board but not included in the amount in the tuition appropriation schedule. It is estimated that tuition could increase by approximately 7% overall in 2002-03 under current law for UW-System initiatives in Act 16 funded in part with tuition and unclassified pay plan increases funded with tuition, excluding differential tuition for institution-specific initiatives.

Joint Finance/Legislature: Modify the Governor's recommendation to establish an 8% limit, rather than a 10% limit.

[Act 109 Section: 9156(1)]

10. UTILITY COSTS [LFB Papers 1100 and 1102]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-Lapse	$18,972,600	$1,000,000	- $19,972,600	$0
SEG	$21,272,600	$1,000,000	- $22,272,600	$0

Governor: Provide $4,150,000 SEG in 2001-02 and $17,122,600 SEG in 2002-03 from the utility public benefits fund to support utility costs for the UW System. Create an annual appropriation for this purpose and prohibit the UW-System from encumbering moneys from the new appropriation after June 30, 2003. Specify that of the monies currently appropriated under the agency's GPR-funded energy costs appropriation, $1,850,000 GPR in 2001-02 and $17,122,600 GPR in 2002-03 could be encumbered or expended only upon approval of the DOA Secretary. Increase GPR lapse estimates by $1,850,000 in 2001-02 and $17,122,600 in 2002-03 to reflect the availability of SEG funding to support these costs.

This item is part of a proposal to provide a one-time offset with SEG-funded public benefits moneys of a portion of several state agencies' GPR-funded energy costs during the current biennium. This proposal is summarized under "Administration."

Joint Finance: Provide an additional $1,000,000 SEG in 2001-02 from the utility public benefits fund to support utility costs for the UW System and specify that this increased funding allocation be used to support current master lease payments for energy conservation costs. Increase from $1,850,000 GPR to $2,850,000 GPR in 2001-02 the amount of monies currently appropriated under the agency's GPR-funded energy costs appropriation that could be encumbered or expended only upon approval of the DOA Secretary. Increase GPR lapse estimates by an additional $1,000,000 in 2001-02.

Senate/Legislature: Delete provision.

11. WISCONSIN STATE LABORATORY OF HYGIENE [LFB Paper 1261]

	Governor		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	$310,000	1.00	- $77,700	- 1.00	$232,300	0.00

Governor: Provide $310,000 and 1.0 position in 2002-03, above the current general program operations funding level of $7,671,300, for the Wisconsin State Laboratory of Hygiene under the UW System. This would provide an additional microbiologist position as well as funds for related laboratory expenses.

Joint Finance/Legislature: Delete provision. Instead, place $232,300 in reserve in the Committee's GPR appropriation for 2001-02 and direct the state Department of Health and Family Services (DHFS) to include a proposal to fund 1.0 FED microbiologist position in the WSLH as well as all bioterrorism-related laboratory expenses in the state plan for the use of one-time federal bioterrorism funds available to states under P.L. 107-117, to the extent permissible under federal law, pending approval by the federal Department of Health and Human Services (DHHS). If full funding is not approved by DHHS, WSLH could request that the Committee release this GPR funding and create a position, if needed.

DHHS notified Wisconsin that the state will receive approximately $19.3 million FED for bio-terrorism response activities. DHHS has indicated that 20% of this funding will be available to states immediately and the remaining amount will be released subject to federal approval of a plan submitted by states no later than April 15, 2002. The funds must be spent or encumbered by August 30, 2003.

Veto by Governor [C-5]: Delete the requirement that DHFS include a proposal relating to WSLH in its plan.

[Act 109 Section: 9229(1k)]

[Act 109 Vetoed Section: 9123(2g)]

12. FUNDING FOR LAWTON AND ADVANCED OPPORTUNITY PROGRAM (AOP) GRANTS

GPR	$400,000

Joint Finance/Legislature: Provide $200,000 in 2002-03 to increase funding for the Lawton minority undergraduate need-based grant program. Under Act 16, $2,756,700 is provided for Lawton grants in 2001-02 and $2,880,800 in 2002-03. Total funding for the Lawton grants would increase to $3,080,800 in 2002-03, an 11.8% increase over total funding provided in 2001-02.

Provide $200,000 in 2002-03 to increase funding for the AOP grants for minority and economically disadvantaged graduate students. Under Act 16, $4,503,300 is provided for AOP grants in 2001-02 and $4,705,900 in 2002-03. Total funding for the AOP grants would increase to $4,905,900 in 2002-03, an 8.9% increase over total funding provided in 2001-02.

[Act 109 Sections: 9256(3c)&(3cb)]

13. LINK LAWTON GRANT FUNDING TO TUITION INCREASES

Senate/Legislature: Link annual increases for the Lawton need based aid program appropriation to the highest prior year increase for undergraduate resident tuition at any UW System institution starting in 2003-04. Modify the appropriation from a biennial sum certain to a sum sufficient appropriation effective July 1, 2003. Provide that the appropriation amount in any year would be the prior year amount adjusted by the applicable percentage increase in undergraduate resident tuition, rounded to the nearest $100. Specify that if tuition decreased or was unchanged, funding would remain at the prior year amount.

[Act 109 Sections: 33hm, 93v and 9424(1d)]

14. FUNDING FOR THE UW-MADISON WAISMAN CENTER

GPR	$300,000

Joint Finance/Legislature: Provide one-time funding of $300,000 in 2002-03 to UW-Madison to allocate to the Waisman Center for the child parent center demonstration project. The Waisman Center is a national research center for human development and developmental disabilities located at UW-Madison.

[Act 109 Sections: 9156(3q) and 9256(3q)]

15. VETERINARY DIAGNOSTIC LABORATORY LAPSE [LFB Paper 1262]

	Jt. Finance	Legislature (Chg. to JFC)	Net Change
GPR-REV	$933,900	- $133,200	$800,700
PR-Lapse	933,900	- 133,200	800,700

Joint Finance: Require the UW System to lapse $933,900 from the veterinary diagnostic lab PR appropriation to the general fund on June 30, 2002. This amount includes a $667,500 lapse required by 1999 Act 107 and an additional $266,400 lapse, leaving a program revenue account balance of approximately $350,000 (after appropriated program revenue expenditures in excess of $5.4 million for laboratory supplies, services and equipment in the biennium).

Assembly: Delete provision.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: This item was addressed separately by the Legislature in 2001 Act 108 relating to chronic wasting disease. Act 108 requires the veterinary diagnostic laboratory to lapse $800,700 PR to the general fund in 2001-02.

16. RESTORE FUNDING FOR RECYCLING EDUCATION

SEG	$983,600

Senate/Legislature: Provide $491,800 annually to restore funding for the UW-Extension solid and hazardous waste education centers and solid waste research and experiments under the UW System. The provision restores the funding provided in 2001 Act 16 (the biennial state budget) that was subsequently vetoed by the Governor.

[Act 109 Sections: 9256(4r)&(4s)]

17. UW-GREEN BAY PRODUCTION FACILITY

Senate: Provide $400,000 GPR in 2002-03 for the public television production facility at the UW-Green Bay. Require the Board of Regents of the UW System to endeavor to raise at least $250,000 PR more than was raised in 2001-02 by March 1, 2003, for the facility. Require the Board of Regents to report the results of their fundraising efforts to the Joint Committee on Finance by July 1, 2003.

Conference Committee/Legislature: Delete provision.

VETERANS AFFAIRS

1. SEGREGATED REVENUE TRANSFER [LFB Paper 1121]

	Governor	Legislature (Chg. to Gov)	Net Change
GPR-REV	$380,500	- $380,500	$0
SEG-Transfer	380,500	- 380,500	0

Governor: Transfer $156,700 in 2001-02 and $223,800 in 2002-03 to the general fund from the Department's foreclosure loss payments SEG appropriation.

Assembly: Delete provision.

Senate: Include Governor's provision.

Conference Committee/Legislature: Delete provision.

2. "VICTORIOUS CHARGE" CIVIL WAR MONUMENT FUNDING ELIMINATION

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- $50,000	$50,000	$0

Governor: Delete one-time funding of $50,000 in 2001-02 for a cost-sharing grant to the Milwaukee Arts Board for restoration services on the "Victorious Charge" Civil War monument in the City of Milwaukee.

Joint Finance/Legislature: Delete provision.

3. WISCONSIN VETERANS MUSEUM FUNDING REDUCTION [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $9,200	- $7,400	- $3,700	- $20,300

Governor: Reduce the general operations appropriation for the Wisconsin Veterans Museum by $9,200 GPR in 2002-03. This reduction represents 1.3% of the appropriation in 2002-03.

Joint Finance: Reduce the Department's largest GPR state operations appropriation (Wisconsin Veterans Museum operations) by an additional $7,400. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Reduce the Department's largest state operations appropriation (Wisconsin Veterans Museum operations) by an additional $3,700. This amount represents an additional 0.5% reduction in the agency's state operations appropriations in 2002-03. Provide that the Department may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the Department's other sum certain, state operations appropriation funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9257(1) and 9259(7z)]

4. WISCONSIN VETERANS TRIBUTE MEMORIAL FUNDING ELIMINATION [LFB Paper 1270]

	Governor	Jt. Finance/Leg (Chg. to Gov)	Net Change
GPR	- $3,000	$3,000	$0

Governor: Delete one-time funding of $3,000 in 2001-02 for a matching grant to the Wisconsin Veterans Tribute Memorial at Cadott (Chippewa County) for the repair and replacement of flags at the Memorial.

Joint Finance/Legislature: Delete provision.

5. APPOINTMENT OF ASSISTANT COUNTY VETERANS SERVICE OFFICERS

Senate/Legislature: Authorize a county board, or a county executive or administrator in those counties with such positions, to appoint assistant county service officers who are

Wisconsin residents and who served honorably on active duty (other than active duty for training) in the United States armed forces or in forces incorporated as part of the United States armed forces and who meet at least one condition under each of the following current law definitions:

Definition of Eligible Periods of Active Duty Service. To be eligible for appointment, the individual must have served either: (a) during conflict periods in Bosnia, Grenada, Lebanon, Panama, Somalia or a Middle East crisis; (b) during the Vietnam Conflict and related expeditionary missions; (c) for 90 days or more during a war period or, if having served less than 90 days, was honorably discharged for a service-connected disability; or (d) on active duty in the U.S. armed forces for two continuous years or more or the full period of the individual's initial service obligation, whichever is less.

Definition of Residency. At the time of appointment, specify that the individual must be living in the state and either: (a) must have his or her selective service local board, if any, and home of record at the time of entry or reentry into active service in Wisconsin; (b) was a resident of Wisconsin at the time of entry or reentry into active duty; or (c) has been a resident of Wisconsin for any consecutive 12-month period after entry or reentry into service and before the date of his or her appointment.

Clarify that persons elected or appointed to be county veterans service officers would also have to meet at least one condition under each of the above current law definitions. The current eligibility requirements for a county veterans service officer are that he or she be a Wisconsin resident, served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces for two consecutive years (except service on active duty for training purposes), or was discharged due to hardship or a service-connected disability or was released due to a reduction in the U.S. armed forces or for the good of the service prior to the completion of the required period of service (regardless of the actual time served).

[Act 109 Sections: 100pm thru 100s]

6. VETERANS TRANSPORTATION SERVICES GRANTS

Senate/Legislature: Modify the authority of the Department to provide grants to counties that are not served by the Disabled American Veterans Transportation Network for transportation services for disabled veterans by deleting the limitation that the transportation services be only for "disabled" veterans, thereby allowing the grants to be used for transportation services for any veteran. Delete a similar limitation to "disabled" veterans with respect to a cost effectiveness study for the provision of transportation services being jointly undertaken by the Department and DOA.

[Act 109 Sections: 100v and 1160p]

7. RESIDENCY REQUIREMENTS FOR BURIAL OF CERTAIN VETERANS IN VETERANS CEMETERIES

Senate/Legislature: Specify that among those classes of veterans eligible for burial at a Wisconsin Veterans Memorial Cemetery would be those veterans who were discharged or released from active duty in the U.S. armed forces under honorable conditions and who were residents of the state for at least 12 months after entering or reentering service on active duty, rather than the current law state residency requirement of at least five years after completing service on active duty. Provisions of 2001 Wisconsin Act 16 reduced from five years to 12 months the residency requirement for eligibility for most other state veterans benefit programs.

[Act 109 Section: 100p]

WISCONSIN HEALTH AND EDUCATIONAL FACILITIES AUTHORITY

1. DEFINITION OF AN EDUCATIONAL FACILITY

Assembly: Modify the definition of an "educational facility," as it relates to projects for which WHEFA may issue bonds, to delete the requirement that the facility be a post-secondary educational institution. Current law defines an "educational facility" as a regionally accredited, private, postsecondary educational institution that is considered tax exempt under section 501 (c) (3) of the Internal Revenue Code. Under this provision, facilities used for primary and secondary education would be eligible for WHEFA financing.

WHEFA is a quasi-public organization authorized to issue bonds to finance capital projects for health care institutions, independent colleges and universities and child care facilities.

Senate/Legislature: Delete provision.

2. REFUSAL TO ISSUE BONDS

Senate/Legislature: Delete the current provision that prohibits WHEFA from refusing to issue bonds only if it determines that the issuance of a bond would not be financially feasible. Under current law, WHEFA is authorized to issue bonds to finance projects or refinance outstanding debt for health facilities, educational facilities or child care centers. Currently, WHEFA can only refuse to issue a bond for an eligible project if it determines that the bond would not be financially feasible. This provision would authorize WHEFA to refuse to issue bonds for any reason.

[Act 109 Section: 365j]

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

1. HOUSING GRANTS

Governor: Require WHEDA to transfer $1,500,000 in 2001-02 and $3,300,300 annually beginning in 2002-03 from its unencumbered general reserve fund to the Department of Administration for housing grants and loans. WHEDA is required by statute to maintain an unencumbered general reserve fund within its general fund into which any Authority assets in excess of operating costs and required reserves are to be deposited. A large portion of its unencumbered general reserve funds are used by WHEDA to supplement bond proceeds to achieve more favorable interest rates or other lending terms. The Authority also has developed and administered several programs using these funds. Annually, the Authority submits a "Dividends for Wisconsin" plan which is required to be reviewed by the Governor and Legislature and specifies the amount of funding, from total unencumbered general reserves, which is to be allocated to single- and multi-family housing programs and economic development programs. A total of $11,576,100 is available from "Dividends for Wisconsin" in 2001-02.

Joint Finance/Legislature: Make the transfers from WHEDA to DOA for the 2001-03 biennium only instead of ongoing under the Governor's recommendation.

[Act 109 Sections: 15c, 52, 52c, 366 thru 367c, 9101(6z), 9201(1) and 9401(2z)]

2. RURAL FINANCE AUTHORITY

Assembly: Require the Department of Commerce to work with the Department of Administration, the Department of Agriculture, Trade and Consumer Protection and WHEDA to develop a proposal to be included in Commerce's biennial budget submittal to DOA for 2003-05, for the creation of a Wisconsin Rural Finance Authority. Specify the agencies consider proposing that the authority be created to offer low-interest loans to Wisconsin agricultural producers. In addition, specify that the proposal include a governing board to head the authority and consider the feasibility of an 11-member board consisting of three agricultural producers, three commercial bankers, two citizens appointed by the Governor, the Secretaries (or designees) of Commerce and DATCP and the Executive Director (or designee) of WHEDA. Require that the Commerce budget request consider including programs such as: (a) farm purchase assistance loans and seller assisted loans; (b) beginning farmer loans to purchase animals, machinery and real estate; (c) an agricultural improvement program to finance the physical improvements of a farm operation; (d) a livestock modernization program; and (e) a program to finance agricultural producer purchases of stock in a cooperative that engages in agricultural processing. In addition, require the agencies to consider transferring WHEDA's current CROP, FARM and Agribusiness programs into the Wisconsin Rural Finance Authority.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Section: 9110(1v)]

WISCONSIN TECHNICAL COLLEGE SYSTEM

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $6,379,900	$5,293,200	$182,600	- $904,100

Governor: Reduce the following GPR appropriations by a total of $35,500 in 2001-02 and $6,344,400 in 2002-03. These amounts represent 1% of two general program operations appropriations in 2001-02 and 4.5% of all technical college GPR funded appropriations in 2002-03. Require the WTCS Board to encourage district boards to accommodate the $5.3 million

reduction in state aid for technical colleges without negatively affecting their instructional programs.

	Reduction Amount	
	2001-02	2002-03
General Program Operations	- $34,900	- $156,900
Fee Remissions		-700
Displaced Homemaker's Program		-38,300
Minority Student Participation and Retention Grants		-27,800
Capacity Building Program		-90,000
Incentive Grants		-355,000
Farm Training Program Tuition Grants		-6,800
Services for Handicapped Students		-18,000
Aid for Special Collegiate Transfer Programs		-50,600
Technical College Instructor Occupational Competency Program		-3,200
Faculty Development Grants		-37,400
Apprenticeship Curriculum Development		-3,400
Grants for Additional Course Sections		-110,300
Alcohol and Drug Abuse Prevention and Intervention		-23,600
Driver Education, Local Assistance		-14,500
Chauffeur Training Grants		-9,000
Supplemental Aid		-67,500
Agricultural Education Consultant	-600	-2,700
State Aid for Technical Colleges		-5,328,700
Total	-$35,500	-$6,344,400

Joint Finance: Reduce the agency's largest state operations appropriation by an additional $35,500. This amount represents an additional 1% reduction in the WTCS's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s.13.10 to reallocate any amount of this 1% reduction to any of the agency's other sum certain, state operations appropriations funded from GPR.

Provide $5,328,700 GPR in 2002-03 to restore funding provided in 2001 Act 16 for the state aid for technical colleges appropriation and delete the nonstatutory provision relating to accommodating the aid reduction without the districts negatively affecting their instructional programs. Funding in this appropriation would total $118,415,000 in 2002-03.

Assembly: Reduce the agency's largest state operations appropriation by an additional $17,700. This amount represents an additional 0.5% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s.13.10 to reallocate any amount of this 0.5% reduction to any of the agency's other sum certain, state operations appropriations funded from GPR.

Senate: Modify the Joint Finance provision to restore funding in 2002-03 for capacity grants ($90,000) and for grants for additional course sections ($110,300).

Conference Committee/Legislature: Include the Assembly and Senate provisions.

[Act 109 Sections: 9248(1)&(2) thru (18) and 9259(7z)]

2. EDUCATIONAL ASSISTANCE FOR DISLOCATED WORKERS [LFB Paper 1275]

	Governor	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	$4,200,000	- $4,200,000	$0

Governor: Provide $4,200,000 GPR in 2002-03 in a new, annual appropriation for the WTCS Board to provide educational assistance for dislocated workers. Beginning in the 2002-03 school year, require the WTCS Board to pay a student's tuition and fees at a technical college district from funding provided in the new appropriation if the student satisfies all of the following criteria: (a) the student is a dislocated worker who has been referred to the district by a local work force development board; (b) the worker is enrolled in an associate degree program or a vocational diploma program; and (c) the student maintains a grade point average of at least 2.0. If the amount appropriated in any fiscal year is insufficient to pay the tuition and fees of all eligible students, the Board would make payments in the order in which they were received. Require the WTCS Board to promulgate rules to implement and administer this program.

Joint Finance/Legislature: Delete provision.

3. ELIMINATE THE TECHNICAL AND OCCUPATIONAL PROGRAM GRANTS FOR STUDENTS

GPR	- $4,200,000

Governor: Eliminate the technical and occupational program (TOP) grants to students with $4,200,000 in 2002-03, effective July 1, 2002. Under this program, which was established in 1999 Act 9 as a two-year grant and modified in 2001 Act 16 to be a one-year grant, recent high school graduates attending a technical college district full-time are eligible for a $500 grant for one year of study. In 2001-02, it is estimated that 9,200 students will receive TOP grant awards.

Senate: Delay the elimination of TOP grants until July 1, 2003, and restore $4,200,000 for the program in 2002-03.

Conference Committee/Legislature: Include the Governor's recommendation.

[Act 109 Sections: 34, 98, 99 and 9448(1)]

4. MILL RATE AND LEVY LIMIT CHANGES [LFB Paper 1276]

Governor: Limit the amount of property taxes levied by each WTCS district for all purposes except debt service to the lesser of: (a) the amount levied in the previous year adjusted by the change in the consumer price index between the preceding March 31 and the second preceding March 31; or (b) the amount that would be generated by a levy rate of 1.5 mills. Authorize technical college district boards to exceed the levy limit for operating costs provided the district board adopts a resolution and submits the resolution for approval through a special referendum, but in no case could the levy exceed the amount that would be generated by a levy rate of 1.5 mills. In lieu of a special referendum, the district board could specify that the referendum be held at the next succeeding spring primary or election or September primary or general election if such election would be held not sooner than 42 days after the filing of the resolution of the district board. The district board secretary would be required to publish notices of the referendum and the referendum would be held in accordance with current law governing elections. Specify that the question submitted would be whether the levy limit may be exceeded by a specified amount. Provide that if the referendum is approved, the levy limit otherwise applicable would be increased by the specified amount.

Under current law, technical college district property tax levies for all purposes except debt service are limited to 1.5 mills of the district's equalized property valuation. In 2000-01, three of the state's 16 technical college districts had tax rates at the mill limit.

Joint Finance/Legislature: Delete provision.

5. LIMITATION ON INCREASE IN FEES [LFB Paper 1276]

Governor: Specify that program fees charged students in 2002-03 could not exceed the fees charged students in 2001-02 by more than 10%.

Under current law, tuition for state residents enrolled in post-secondary and vocational-adult programs is to be set at the level necessary to generate revenue equal to at least 14% of the estimated, statewide operational cost of those programs. The uniform tuition charge for college parallel courses is to equal at least 31% of the estimated, statewide operational cost of such programs.

Joint Finance/Legislature: Delete provision.

6. REDUCE FUNDING FOR TRAVEL AND ADVERTISING

GPR	- $40,000

Assembly: Delete $40,000 in 2002-03 for travel and advertising. This would represent approximately 50% of the Board's travel funding and 100% of their advertising funding. In addition, prohibit the WTCS Board from using GPR funds for advertising expenses.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

Veto by Governor [A-5]: Delete the prohibition on using GPR funds for advertising expenses. In addition, the Governor's partial veto deletes portions of two bill sections relating to budget reductions for the technical college system so that one combined section is created, which reads, in part: "… and the dollar amount is decreased by $156,900 AND $40,000 for fiscal year 2002-03." The effect of the partial veto is to retain both the $156,900 reduction under item 1 and the $40,000 reduction in this item in 2002-03 for the agency's largest GPR general program operations appropriation but to remove the requirement that the reduction be applied to travel and advertising expenses.

[Act 109 Section: 9248(1)]

[Act 109 Vetoed Sections: 94m and 9248(1)&(1x)]

7. TERRORISM RESPONSE TRAINING PROGRAM

Governor/Legislature: Modify current law authorizing the WTCS Board to establish and supervise training programs in fire prevention and protection, to include training in responding to acts of terrorism.

[Act 109 Section: 94]

WORKFORCE DEVELOPMENT

1. ACROSS-THE-BOARD BUDGET REDUCTIONS [LFB Paper 1120]

	Governor	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- $1,990,200	- $350,000	- $175,000	- $2,515,200

Governor: Reduce the following GPR appropriations by a total of $830,900 in 2001-02 and $1,159,300 in 2002-03. These amounts represent 3.5% of non-exempted GPR appropriations in 2001-02 and 5.0% of non-exempted GPR appropriations in 2002-03. The following items were exempted from the GPR budget reductions: (a) funds used to meet the temporary assistance for needy families (TANF) maintenance-of-effort requirement (b) funds used to meet the maintenance-of-effort requirement for the federal child care block grant; (c) funds used for income maintenance contracts with counties and tribes; (d) deductions previously made in the economic support general operations appropriation; (e) funds used for vocational rehabilitation program services; (f) funds used for general child support enforcement efforts; (g) funds dedicated to assisting counties in their efforts to convert percentage-expressed child support orders to fixed-sum orders; and (h) workers compensation special death benefits.

	Reduction Amount	
	2001-02	2002-03
Workforce Development -- General Program Operations	-$255,100	-$364,400
Wisconsin Service Corps Member Compensation and Support	-3,300	-4,700
Employment Transit Aids, State Funds	-20,300	-29,000
Review Commission -- General Program Operations	-7,000	-10,000
Economic Support -- General Program Operations	-420,400	-573,000
State Supplement to Employment Opportunity Demonstration Projects	-8,800	-12,500
Governor's Work-Based Learning Board -- General Program Operations	-105,500	-50,700
Local Youth Apprenticeship Grants	0	-100,000
School-to-Work Programs for Children At-Risk	-10,500	-15,000
Total	-$830,900	-$1,159,300

Joint Finance: Reduce the Department's largest GPR state operations appropriation by an additional $350,000. This amount represents an additional 1% reduction in the agency's state operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint

Committee on Finance under s. 13.10 to reallocate any amount of this 1% reduction to any of the Department's other sum certain, state operations appropriations funded from GPR.

Assembly: Reduce the Department's largest GPR state operations appropriation by an additional $175,000. This amount represents an additional 0.5% reduction in the agency's state GPR operations appropriations in 2002-03. Provide that the agency may submit a request to the Joint Committee on Finance under s. 13.10 to reallocate any amount of this 0.5% reduction to any of the agency's other sum certain, state operations appropriations funded from GPR.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 109 Sections: 9258(1) thru (9) and 9259(7z)]

2. WAGE CLAIM LIENS

Joint Finance: Modify the state wage payment and collection law to delete the requirement that a lien of a financial institution that originates before a wage claim lien takes effect takes precedence over the wage claim lien. Require that the change in precedence applies retroactive beginning with wage claim liens filed after February 1, 1998.

Assembly: Delete provision.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Delete provision.

3. REFERRAL OF PREVAILING WAGE CLAIMS TO DOJ

Senate: Include the provisions of 2001 Senate Bill 491, which would require DWD and DOT to refer wage claims arising under the prevailing wage laws to DOJ if DWD or DOT decides not to sue an employer to collect the claim or to refer the claim to the district attorney. Require DOJ to investigate the claim as necessary and, if the claim appears valid, commence an action in the appropriate circuit court to collect the claim. In addition, specifically authorize DOT to sue an employer on behalf of an individual that has filed a wage claim under the prevailing wage laws and adopt technical modifications to make the prevailing wage statutes consistent with other statutory provisions regarding employment and wage claims.

Under current law, DWD is responsible for enforcing the municipal and state prevailing wage laws (other than for highway projects), while DOT enforces the prevailing wage laws for

highway projects. In pursuance of this duty, DWD may sue the employer on behalf of the employee to collect any wage claim or wage deficiency. Alternatively, DWD may refer such an action to the district attorney of the county in which the violation occurs for prosecution and collection and the district attorney must commence an action in the circuit court having appropriate jurisdiction. The current statutes do not specifically authorize DOT to sue an employer on behalf of an employee, but DOT may request the district attorney of the county in which a state highway project is located to investigate and prosecute a prevailing wage law violation related to a highway project. These agencies are not currently required to refer such violations to DOJ.

Conference Committee/Legislature: Delete provision.

4. PREVAILING WAGE LAWS -- INSPECTION OF CONTRACTOR RECORDS

Senate/Legislature: Require all contractors and subcontractors that work on a project subject to the prevailing wage laws to allow the public to inspect payroll records of covered employees that are maintained by the subcontractor or subcontractor under the prevailing wage provisions. Before permitting the inspection and copying of a record, require contractors and subcontractors to delete from the record any personally identifiable information, as defined under the state open records law, other than the trade or occupation of the person, the number of hours worked by the person, and the actual wages paid for those hours worked.

Veto by Governor [C-11]: Delete provision.

[Act 109 Vetoed Sections: 153d, 274c and 274cj]

5. ELIMINATE GOVERNOR'S WORK-BASED LEARNING BOARD

Assembly: Eliminate the Governor's Work-Based Learning Board (GWBLB) and delete $84,200 GPR and 1.0 GPR position in 2002-03 to eliminate the Executive Director's position. Transfer the Board's remaining staff, funding, responsibilities and functions to the Division of Workforce Solutions in the Department of Workforce Development for administration.

The Governor's Work-Based Learning Board administers work-based learning programs. The GWBLB consists of the following members: (a) Governor; (b) State Superintendent of Public Instruction; (c) the president of the Wisconsin Technical College System; (d) the Secretary of DWD; (e) Administrator of DWD's Division of Workforce Solutions; (f) four representatives of organized labor; (g) four representatives of business and industry; (h) two members with experience in secondary, vocational and work-based learning and not public officers or members of organized labor; and (i) a public member. The GWBLB administers the following

programs: (a) youth apprenticeship and local youth apprenticeship grants; (b) technical preparation; (c) school-to-work for at-risk youth; and (d) work-based learning for tribal colleges.

Senate/Legislature: Delete provision.

6. ELIMINATE OFFICE OF ORGANIZATIONAL MANAGEMENT

Assembly: Delete expenditure authority of $1,093,700 PR and 11.0 PR positions and eliminate the Office of Organizational Management in DWD. The Office is responsible for designing, implementing and monitoring management systems and assisting and supporting the Department's divisions in implementing the systems. The Office is supported by fees charged to the Department's programs for services provided. This provision would eliminate the Office's staff and expenditure authority to charge the programs for the Office's services.

Senate/Legislature: Delete provision.

7. OFFICE OF FEDERAL-STATE RELATIONS

	Governor		Jt. Finance (Chg. to Gov)		Legislature (Chg. to JFC)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
FED	$0	0.00	- $61,500	- 1.00	$61,500	1.00	$0	0.00

Joint Finance: Delete $61,500 and 1.0 project position in 2002-03 that serves DWD in the Office of Federal-State Relations in Washington, DC. Under current law, this position is funded by various federal funding sources in DWD through a cost allocation mechanism.

Assembly: Restore position and funding.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Include Assembly provision.

8. EARLY CHILDHOOD EXCELLENCE INITIATIVE

Joint Finance: Require DWD to conduct a deobligation and reobligation process for contracts awarded under the early childhood excellence initiative that will expire on June 30, 2002. In addition, specify that $2,500,000 allocated for the early childhood excellence initiative in 2002-03 can only be allocated for early childhood excellence centers and not for the component

of the program that provides grants to child care providers that have received training from early childhood excellence centers.

Under the 1999-01 biennial budget, $15 million was provided for an early childhood excellence initiative. Contracts were originally set to expire on December 31, 2001. Because not all funds had been spent and no new funding was available for the early childhood excellence initiative in fiscal year 2001-02, DWD extended the contracts through June 30, 2002. At the end of the initial contract period, agencies had varying amounts of funding remaining. This action would require DWD to reallocate funds among the current contractors to allow all agencies to continue providing services through June 30, 2002.

For 2002-03, a total of $2,750,000 was allocated for the early childhood excellence initiative. Act 16 designated $250,000 of these funds for La Causa, Inc. in Milwaukee. The Committee's action specifies that the remaining $2,500,000 could only be used for the component of the initiative that provides grants to early childhood excellence centers. Funds could not be used for the component of the initiative that provides funds to child care resource and referral agencies to administer a grant program that provides funding to child care providers that have received training from early childhood excellence centers, in order to create additional early childhood excellence centers.

Assembly: Delete provision.

Senate: Include Joint Finance provision.

Conference Committee/Legislature: Delete provision.

9. APPROPRIATION OF TANF FUNDS

Senate/Legislature: Appropriate $10,000,000 FED in 2001-02 that is currently available in the unappropriated TANF block grant balance to DWD and transfer these funds to the Joint Committee on Finance's federal program supplements appropriation as PR-S. Specify that these funds could only be used for purposes eligible under the TANF block grant. In order for DWD to have access to these funds, a proposal would have to be approved pursuant to s. 13.10 and s. 13.101 of the statutes.

Veto by Governor [C-10]: Delete provision.

[Act 109 Vetoed Sections: 64g and 9258(14d)(a)&(b)]

10. COMMUNITY YOUTH GRANTS

FED	$250,000

Senate/Legislature: Increase funding for the Boys and Girls Clubs of America by $250,000 annually for a total allocation of $300,000 annually in the 2001-03 biennium. In 2001-02, appropriate $250,000 available in the unappropriated TANF balance and designate the funding for the Boys and Girls Clubs of America under the community youth grants program. In 2002-03, increase funding for the Boys and Girls Clubs of America using $250,000 that was appropriated to DWD and placed in unallotted reserve by the Governor's partial veto of 2001 Wisconsin Act 16 (the 2001-03 biennial budget act).

The community youth grant program is funded by the TANF block grant. In 2001-02, Act 16 provided $500,000 for new community youth grants, including $50,000 for the Boys and Girls Clubs of America and $450,000 for competitive grants. For 2002-03, Act 16 provided $50,000 for the Boys and Girls Clubs of America and no funding for additional competitive grants. This provision would increase funding for the Boys and Girls Clubs of America by $250,000 annually and would preserve the $450,000 allocated in 2001-02 for competitive grants. As under Act 16, no funding would be provided for competitive grants in 2002-03.

[Act 109 Sections: 119k, 1160q and 9258(13c)]

11. WISCONSIN WORKS DISPUTE RESOLUTION PROCESS

Senate: Modify the current dispute resolution process under the Wisconsin Works (W-2) program by eliminating the initial W-2 agency review of agency decisions, and eliminating the current provisions regarding the review by DWD. Instead, provide that all petitions for review would be submitted to the Department, require DWD to give the applicant or participant reasonable notice and opportunity for a fair hearing, and specify that the Department may make any additional investigation it deems necessary. Require that notice of the hearing be given to the applicant or participant and, if appropriate, to the county clerk. Allow the W-2 agency and county to be represented at the hearing. Require the Department to render its decision as soon as possible after the hearing and to send a certified copy of its decision to the applicant or participant, the county clerk, if appropriate, and the W-2 agency. Specify that the decision of the Department would be final but could be revoked or modified if circumstances change. Require the Department to deny a petition for a hearing or refuse to grant relief if: (a) the applicant or participant withdraws the petition in writing; (b) the sole issue in the petition concerns an automatic grant adjustment or change for a class of participants as required by state or federal law; or (c) the applicant or participant abandons the petition. Specify that these provisions would not create an entitlement to any W-2 services or benefits.

Further, specify that if the Department determines that an individual's application was not acted upon with reasonable promptness or was improperly denied in whole or in part, or that a participant was placed in an inappropriate W-2 employment position, the W-2 agency would be

required to grant the appropriate benefit, retroactive to the date on which the individual's application was first not acted upon with reasonable promptness or was improperly denied in whole or in part, or the individual was first placed in an inappropriate W-2 position.

Finally, specify that the fair hearing process outlined above would be used for overpayment hearings and hearings for individuals who have failed to cooperate with Learnfare case management requirements. All provisions under this proposal would take effect on the first day of the seventh month beginning after publication of the bill.

Under current law, a two-part process is established for reviewing decisions by local W-2 agencies. The first step of the process allows individuals to petition the local agency for review of a certain decision. If the agency's review does not result in a decision that is acceptable to the individual, he or she can then petition the Department for review of the agency's decision. This provision would eliminate the first step of review by the W-2 agency. Instead, any individual whose application for a W-2 employment position is not acted upon by the local W-2 agency with reasonable promptness could petition DWD for review of such action. A petition for review could also be made if the application is denied in whole or in part, if the individual's benefit is modified or canceled, if the individual believes that the benefit was calculated incorrectly, or if the individual believes that he or she was placed in an inappropriate employment position.

Under current law, DWD must review a decision by a W-2 agency if the agency's decision involved denial of an application based solely on the determination of financial ineligibility. If the agency's decision does not involve denial of an application based solely on the determination of financial ineligibility, DWD is authorized, but not required, to review a decision by a W-2 agency. These provisions would be eliminated under this proposal. Instead, the Department would have to provide reasonable notice and opportunity for a fair hearing to all individuals who petition the Department for a review.

Further, under current law, the W-2 agency must place an individual in the first available W-2 employment position that is appropriate for the individual if: (a) the individual's application for a W-2 employment position was denied and the W-2 agency or the Department determines that the individual was in fact eligible; or (b) the individual was placed in an inappropriate W-2 employment position. The individual is eligible for the benefit for the W-2 employment position beginning on the date on which the individual begins employment or education and training activities for that position and is not eligible for retroactive benefits. Finally, if the W-2 agency or the Department determines that a person's benefit was improperly modified, canceled or calculated, the W-2 agency must restore the benefit to the appropriate level retroactive to the date on which the error first occurred. This proposal would modify these provisions to extend retroactive benefits to: (a) individuals whose applications were not acted upon with reasonable promptness; (b) individuals whose applications were improperly denied; and (c) individuals who were placed in an inappropriate W-2 position.

These provisions would increase cash benefit payments by an unknown amount. They would also increase DWD administrative costs and reduce W-2 agency administrative costs. Since the proposal does not provide additional funding, W-2 agencies would be required to absorb any additional costs within their W-2 agency contract allocations and DWD would be required to absorb any increased administrative costs within current allocations for state administration of the W-2 program.

Conference Committee/Legislature: Include only the Senate provisions relating to the payment of retroactive W-2 benefits if a W-2 agency or DWD determines that an individual's application for benefits was not acted upon with reasonable promptness or was improperly denied in whole or in part. The W-2 agency would be required to grant the appropriate benefit, retroactive to the date on which the individual's application was first not acted upon with reasonable promptness or was improperly denied.

Under current law, the W-2 agency must place an individual in the first available W-2 employment position that is appropriate for the individual if: (a) the individual's application for an employment position was denied and the W-2 agency or DWD determines that the individual was in fact eligible; or (b) the individual was placed in an inappropriate W-2 employment position. The individual is eligible for the benefit for the W-2 employment position beginning on the date on which the individual begins employment or education and training activities for that position and is not eligible for retroactive benefits. Also under current law, if the W-2 agency or the Department determines that a person's benefit was improperly modified, canceled or calculated, the W-2 agency must restore the benefit to the appropriate level retroactive to the date on which the error first occurred.

The effect of this proposal would be to extend retroactive benefits to: (a) individuals whose applications were not acted upon with reasonable promptness; and (b) individuals whose applications were improperly denied. Under the Senate proposal, retroactive benefits also would have been available to individuals who were placed in an inappropriate W-2 position. However, this provision was not adopted by the Conference Committee.

Veto by Governor [C-9]: Delete provision.

[Act 109 Vetoed Sections: 119g thru 119gk, 119r, 121k, 9358(2f) and 9458(2f)]